

**DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH
AND
DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN SERVICES**

NOTICE OF PROPOSED RULEMAKING

The Directors of the Department of Health and the Department of Human Services, pursuant to the authority set forth in section 7 of the Child Development Facilities Regulation Act of 1998 (hereinafter "the Act"), effective April 13, 1999, D.C. Law 12-215, D.C. Official Code § 7-2036, and in accordance with Mayor's Order 2000-124, dated August 3, 2000, hereby give notice of their intent to adopt the following licensure and operating standards for child development facilities in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purposes of this rulemaking are to protect the health, safety and well-being of children in licensed Child Development Facilities and to ensure the provision of developmentally appropriate programs to those children. These rules were developed by a community task force under the auspices of the Department of Human Services, and were then refined by the Department of Health.

In accordance with section 20 of the Act, D.C. Official Code § 7-2049, the existing Chapter 3 of Title 29 of the District of Columbia Municipal Regulations (DCMR) is repealed upon the effective date of these proposed rules, and replaced thereby. The following proposed rulemaking is a new 29 DCMR Chapter 3.

CHAPTER 3 CHILD DEVELOPMENT FACILITIES

300 GENERAL PROVISIONS

- 300.1 This Chapter is promulgated pursuant to the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215, D.C. Official Code §7-2031 *et seq.*) (hereinafter "the Act").
- 300.2 The purpose of this Chapter is to protect the health, safety and well-being of children in licensed Child Development Facilities and to ensure the provision of developmentally appropriate programs to those children.
- 300.3 Unless specifically exempted, the provisions of the Act and of this Chapter shall apply to every Caregiver and Child Development Facility, regardless of the name by which the Facility is designated.
- 300.4 A listing of licensed Facilities shall be maintained by the Department of Health and shall be made available to the public upon request.
- 300.5 A Child Development Facility that is licensed on the effective date of these rules shall have three (3) years from the effective date of these rules

JAN 14 2005

to comply with the requirements of this Chapter, unless otherwise specified herein.

301 EXEMPTIONS FROM LICENSURE

301.1 The provisions of this Chapter shall not apply to the following:

- (a) Occasional babysitting in a babysitter's home for the children of one family;
- (b) Informal parent-supervised neighborhood play groups;
- (c) Care provided in places of worship during religious services;
- (d) Care by a related person, as defined in section 399 of this Chapter; and
- (e) Facilities operated by the federal government on federal government property; except that a private entity utilizing space in or on federal government property is not exempt unless federal law specifically exempts the Facility from District of Columbia regulatory authority.

302 LICENSING

302.1 Except as otherwise provided in this Chapter, no person shall either directly or indirectly operate a Child Development Facility without first obtaining a license from the Director authorizing that operation.

302.2 A separate license shall be required for each Child Development Facility. When a Child Development Facility is located in separate buildings on the same grounds or premises and operated by only one licensee, separate licenses for each building shall not be required.

302.3 Each license shall be issued only for the premises and person(s) or entity(ies) named as applicants in the application, and shall not be valid for use by any other person(s) or entity(ies), or at any place other than that designated in the license.

302.4 Each license shall state: the name of the Facility; the license number and type; the address of the Facility; the name of the program; the license capacity for each age category of children; and the limitations, if any, on services authorized. Each Facility is required to comply with the provisions stated on its license unless otherwise authorized under this Chapter.

303 RIGHT OF ENTRY AND SUBPOENA POWERS

303.1 The Director and any other duly authorized official of the Department of Health, or of another agency of the District of Columbia having jurisdiction over, or

responsibilities pertaining to, Child Development Facilities, after presenting official credentials of identification and authority issued by the District of Columbia, shall have the right, either with or without prior notice, to enter upon and into the premises of any Child Development Facility licensed under this Chapter, or for which an application for license has been made, in order to determine compliance with the Act and with this Chapter, and/or to facilitate verification of information submitted on or in connection with an application for licensure pursuant to provisions of the Act or of this Chapter. The conduct of the authorized official shall be such that entry and inspection shall take place with the least possible disruption to the child development program.

- 303.2 The right of entry and inspection shall also extend to any premises that the Director, or other duly authorized official of an agency of the District of Columbia having jurisdiction over, or responsibilities pertaining to, Child Development Facilities, has reason to believe are being operated or maintained as a Child Development Facility without a valid license, provided that no entry or inspection of any unlicensed premises shall be made without the permission of the individual in charge of the premises or unless a warrant is first obtained from the D.C. Superior Court, pursuant to D.C. Official Code § 11-941, authorizing the entry or inspection for the purpose of determining compliance with the Act or with this Chapter.
- 303.3 The Director is authorized to utilize subpoena power pursuant to D.C. Official Code §§ 1-301.21 and 7-2036 to supervise, inspect, and investigate Child Development Facilities in order to determine compliance with the provisions of the Act or of this Chapter.
- 303.4 Authorized District of Columbia officials shall have access to all records of the Facility, including but not limited to: child, staff and administrative records; financial, tax and inspection records; policies and procedures; and any other information or documentation necessary to determine the Facility's compliance with applicable federal and District of Columbia laws and regulations.

304 CERTIFICATE OF OCCUPANCY AND HOME OCCUPATION PERMIT

- 304.1 Before applying for a license, each Child Development Facility shall secure a Certificate of Occupancy or Home Occupation Permit for the premises, or equivalent proof that the premises comply with all applicable federal and District of Columbia fire, safety, building, and zoning regulations and codes. The Certificate, Permit, or other proof shall include certification that the premises are fit and suitable for the operation of a Child Development Facility.
- 304.2 A new or revised Certificate of Occupancy, Home Occupation permit, or equivalent proof as noted in subsection 304.1 shall be required:
- (a) Upon initial application for a license;

- (b) At the time of any major modification or alteration of any existing premises or structure used by the Facility, but prior to the continued use of the modified or altered portions of the premises or structure for child development purposes; and
- (c) Prior to the use of any portion of the premises or structure that was not previously inspected and approved for use as a Child Development Facility.

305 APPROVAL FOR FIRE SAFETY

305.1 Each Child Development Center shall undergo a fire safety inspection and shall obtain certification that the premises conform to all applicable fire safety and related codes, from the Department of Fire and Emergency Medical Services or from the Department of Consumer and Regulatory Affairs, under the following circumstances:

- (a) Upon initial application for a license;
- (b) Upon each annual application for license renewal;
- (c) At the time of any major modification or alteration of the existing premises or structure used by the Facility, but prior to the continued use of modified or altered portions of the premises or structure for child development purposes; and
- (d) Prior to the use of any portion of the premises or structure not previously inspected and certified as conforming to the applicable fire safety and related codes for use as a Child Development Facility.

305.2 Each Child Development Home shall undergo a fire safety inspection and shall obtain certification that the premises conform to all applicable fire safety and related codes, from the Department of Fire and Emergency Medical Services or from the Department of Consumer and Regulatory Affairs, under the following circumstances:

- (a) Upon initial application for a license;
- (b) At the time of any major modification or alteration of the existing premises or structure used by the Facility, but prior to the continued use of modified or altered portions of the premises or structure for child development purposes; and

JUL 14 2005

- (c) Prior to the use of any portion of the premises or structure not previously inspected and certified as conforming to the applicable fire safety and related codes for use as a Child Development Facility.

306 APPLICATION FOR AN INITIAL LICENSE

- 306.1 Each applicant, or person(s) designated by the applicant to represent the proposed Facility, shall attend an orientation program sponsored by the Director.
- 306.2 Each application, accompanied by the appropriate fee(s), if any, shall be submitted on a form approved by the Director at least ninety (90) days prior to the date of proposed initiation of operations.
- 306.3 Each application shall contain the following:
 - (a) Certificate of Occupancy, Home Occupation Permit, or other proof pursuant to subsection 304.1;
 - (b) Three (3) written references, signed and dated by persons unrelated to the applicant, each of which shall include: the author's name, address, and telephone number; and an attestation of the applicant's suitability to operate a Child Development Facility, or, in the case of a corporation or association, an attestation of the suitability of the person or persons designated to be in charge of the proposed Facility to operate such a Facility;
 - (c) The name(s) and address(es) of the person or persons making the application; or, in the case of a corporation or association, the tax identification number of the entity and the names and addresses of at least three primary officers, directors, or partners;
 - (d) The name and address of the individual designated by the applicant to be the Caregiver or Program Director of the Facility;
 - (e) The qualifications of the individual designated by the applicant to be the Caregiver or Program Director of the Facility, as described in sections 332 and 352 of this Chapter;
 - (f) Proof that the applicant, or in the case of an entity, all principal owners or operators thereof, and that the person designated by the applicant to be the Caregiver or Program Director of the Facility, have undergone the required background checks and obtained the required clearances pursuant to section 328 of this Chapter;
 - (g) The address of the premises to be used as the licensed Facility, plus a description of all structures and facilities making up the premises;

- (h) The name by which the Facility will be known;
- (i) The name(s) and address(es) of the owner(s) of the building(s) that will house the Facility;
- (j) The proposed capacity, hours of operation, ages of children served and services to be provided;
- (k) A program statement, which shall include the following:
 - (1) A description of the educational and developmental philosophy to be followed at the Facility;
 - (2) A description of the curriculum to be implemented;
 - (3) A description of the policy regarding discipline, including the policy regarding withdrawal and termination of children for disciplinary reasons;
 - (4) A typical daily schedule of activities for each age group of children to be served;
 - (5) A statement describing the provision of meals and snacks;
 - (6) A general contingency plan for emergencies; and
 - (7) Proof of compliance with the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code § 47-2861 *et seq.*);
- (l) Certification that the Facility is free of lead-based paint hazards;
- (m) Proof of liability insurance, with additional coverage if the Facility provides transportation services to the enrolled children; and
- (n) Such other reasonable information that the Director may require in order to determine whether the applicant is qualified to operate a Child Development Facility that conforms to the provisions of the Act and of this Chapter.

307 FEES

- 307.1 License fees for Child Development Facilities shall vary in accordance with the Facility's license capacity.

- 307.2 Each applicant shall pay an initial application fee, in the amount of \$65. Each applicant for a license to operate a Child Development Center shall also pay a fee for an initial pre-licensure inspection, in the amount of \$65.
- 307.3 No license fee shall be charged to Child Development Homes, in accordance with the Child Development Home Promotion Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-255, D.C. Official Code § 47-2842(c)); however, a Child Development Home shall be required to pay the appropriate fee for a Basic Business License, in accordance with the Streamlining Regulation Act of 2003, effective October 28, 2003 (D.C. Law 15-38, D.C. Official Code § 47-2851.01 *et seq.*).
- 307.4 The initial license fee, the annual renewal license fee and the license replacement fee for Child Development Centers shall be as follows:
- | | | |
|-----|------------------------|----------|
| (a) | 1 - 50 Children | \$130.00 |
| (b) | 51 - 100 Children | \$195.00 |
| (c) | 101 - 175 Children | \$260.00 |
| (d) | Over 175 Children | \$315.00 |
| (e) | Replacement of License | \$25.00 |
- 307.5 Facilities operated by the District of Columbia Government shall not be required to pay a fee.
- 307.6 The Director may make reasonable adjustment to license fees, as appropriate; a new fee schedule must be published by the Director at least thirty (30) days before the new fee schedule is implemented.
- 307.7 A fee shall be paid whenever there is a required amendment to a license, including a change of ownership or a change of address.
- 307.8 A fee payment submitted with an application shall not be transferred to any other application.
- 307.9 Fee payment is non-refundable.
- 307.10 A late fee in the amount of \$25.00 shall be imposed if a license renewal application is filed after the date on which the license expires.

308 LICENSE RENEWAL

- 308.1 Application for renewal of a Child Development Facility license shall be submitted on a form provided by the Director, with the appropriate documentation and fee, no later than ninety (90) days prior to the expiration date of the existing license.
- 308.2 When a licensee makes timely and complete application for license renewal, the existing license shall remain in effect until the Director makes a determination whether the license will be renewed.
- 308.3 The Director shall issue a license renewal for a period not to exceed one (1) year, when a Facility is in substantial compliance with the Act and with this Chapter.
- 308.4 The Director shall issue the renewal license no later than ten (10) business days after the Director determines that substantial compliance has been achieved.

309 INSPECTIONS AND LICENSE ISSUANCE

- 309.1 Upon receipt of a complete application for an initial license or a license renewal, and prior to the issuance of the license, the Director may conduct an on-site inspection to determine compliance with the Act and with this Chapter.
- 309.2 In the case of an initial license or a license renewal, if the Director determines that a Facility does not comply with the Act or with this Chapter, the Director shall provide a written statement of deficiencies to the applicant no later than five (5) business days from the conclusion of the inspection or other determination.
- 309.3 In the case of an initial license, an applicant Facility shall have no less than forty-five (45) days after receipt of the statement of deficiencies within which to achieve compliance before adverse action may be taken on the application.
- 309.4 In the case of an initial license wherein the applicant has been given a statement of deficiencies, the Director shall conduct a follow-up inspection to determine compliance within ten (10) business days following the forty-five (45) day correction period, or within ten (10) business days after earlier notification from the Facility that compliance has been achieved.
- 309.5 In the case of a license renewal, the Director shall include in the statement of deficiencies a recommended plan of correction, including the designation of a time within which each cited deficiency must be corrected.

- 309.6 In the case of a license renewal wherein the Facility has been given a statement of deficiencies, the Director may conduct one or more additional on-site inspections, as needed, to verify compliance before a renewal license is issued. With respect to each cited deficiency, the on-site inspection shall take place after the completion of the recommended compliance period contained in the statement of deficiencies, as provided by this section.

310 LICENSE CAPACITY

- 310.1 The Director shall determine limitations on the license capacity using the following criteria:
- (a) Occupancy limits established by the Department of Consumer and Regulatory Affairs and/or by the Department of Fire and Emergency Medical Services;
 - (b) Program space requirements, as provided in sections 340, 341, 342, 350, 353 and 355 of this Chapter;
 - (c) Lavatory requirements, as provided in section 361 of this Chapter; and
 - (d) Maximum adult/child ratios and group size requirements, as established in section 343 of this Chapter.
- 310.2 Any Facility desiring a change in its license capacity must submit a written request to the Director, accompanied by written documentation verifying that the Facility can maintain compliance with the requirements of this Chapter if the change is granted.

311 VARIANCES

- 311.1 The Director may grant a variance from compliance with one or more physical or structural requirements of this Chapter if the Director determines that compliance with the requirement(s) would result in exceptional or undue hardship.
- 311.2 A Facility may apply for a variance by submitting a written request to the Director setting forth the following:
- (a) The specific requirement(s) from which the Facility seeks relief;
 - (b) The exceptional or undue hardship that would result from compliance with the requirement(s);
 - (c) The extent to which the Facility seeks to be exempt from the requirement(s); and

- (d) The Facility's proffer as to why granting the variance would not jeopardize the health, safety or welfare of any person and would be consistent with the intent of the Act and of this Chapter.

- 311.3 The Director shall respond to a request for a variance, in writing, within thirty (30) days of receipt of the request.
- 311.4 If a variance is granted, it shall be set forth in writing by the Director.
- 311.5 Any variance obtained by a Facility shall be posted in the Facility in the vicinity of the posted license.
- 311.6 Noncompliance with the terms of a variance may invalidate the variance and may be the basis of additional enforcement action.

312 COMPLAINT INVESTIGATIONS

- 312.1 Upon receipt of a complaint alleging violation(s) of the provisions of the Act or this Chapter, the Director may conduct an on-site investigation, announced or unannounced, to determine the validity of the complaint.
- 312.2 The Director shall investigate an allegation of activity that is life-threatening or imminently dangerous within (24) twenty-four hours of receipt of the complaint.
- 312.3 The Director shall investigate complaints that do not allege life-threatening or imminently dangerous activity no later than thirty (30) days after receipt of the complaint.
- 312.4 Upon completion of a complaint investigation, the Director shall provide a written statement to the Facility no later than ten (10) business days after the conclusion of the investigation. The statement shall include the specific provision(s) of law or regulation alleged in the complaint to have been violated, as well as whether the Facility was found to be in compliance. If the Facility is found not to be in compliance with one or more provisions, the Director shall provide the Facility with a written statement of deficiencies.
- 312.5 If a Facility is provided with a statement of deficiencies as a result of a complaint investigation, the Director shall include in the statement of deficiencies a recommended plan of correction, including the designation of a time within which each cited deficiency must be corrected.
- 312.6 If a Facility is provided with a statement of deficiencies as a result of a complaint investigation, the Director may conduct one or more additional on-site inspections, as needed, to verify compliance. With respect to each cited deficiency, the on-site inspection shall take place after the completion of the recommended compliance period contained in the statement of deficiencies.

313 REVOCATION, DENIAL AND SUSPENSION

313.1 The Director may deny, refuse to renew, revoke, or suspend a license on the basis of any of the following:

- (a) Failure to comply with the Act or with this Chapter;
- (b) Providing false or misleading information in an application for an initial license or for a license renewal;
- (c) Failure to allow entry to authorized officials to conduct an inspection or investigation, or to otherwise determine whether the applicant or licensee is in substantial compliance with the Act or with this Chapter;
- (d) Employing any method of discipline prohibited by this Chapter;
- (e) A determination that an applicant or licensee has been convicted of, or has admitted to committing, any of the following criminal offenses in the District of Columbia or their equivalent in another jurisdiction:
 - (1) Murder or manslaughter;
 - (2) Assault;
 - (3) Battery;
 - (4) Mayhem or threat to do bodily harm;
 - (5) Illegal use or possession of a firearm;
 - (6) Kidnapping;
 - (7) Rape, sexual assault, sexual battery or sexual abuse;
 - (8) Any crime involving moral turpitude and a minor, including sexual exploitation or molestation of a minor;
 - (9) Contributing to the delinquency of a minor;
 - (10) Commercial exploitation of a minor;
 - (11) Illegal distribution of a controlled substance or possession of a controlled substance with intent to distribute;
 - (12) Theft, burglary or robbery;

- (13) Domestic abuse;
 - (14) Fraud, extortion or blackmail; or
 - (15) Failure to pay child support pursuant to the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166, D.C. Official Code § 46-201 *et seq.*);
- (f) In the case of a Facility providing services under contract with the District of Columbia, a determination that any employee who is reasonably expected to come into contact with one or more children, or any volunteer who is reasonably expected to come into unsupervised contact with one or more children, has been convicted of, or has admitted to committing, any of the above-listed criminal offenses in the District of Columbia or its equivalent in another jurisdiction;
- (g) In the case of a Child Development Home, a determination that any person living in the home that houses the Facility has been convicted of, or has admitted to committing, any of the above-listed criminal offenses involving a child or children in the District of Columbia, or its equivalent in another jurisdiction; or
- (h) A determination that an applicant or licensee, or any employee who is reasonably expected to come into contact with one or more children, or any volunteer who is reasonably expected to come into unsupervised contact with one or more children, has admitted to or has been found to have abused or neglected a child in the District of Columbia or in any other jurisdiction.
- 313.2 A license suspension, other than a summary suspension, may be for a period not to exceed sixty (60) calendar days.
- 313.3 At or before the end of the suspension period, the Director shall either reinstate the license or initiate procedures for the revocation of the license.
- 313.4 Procedures for revocations, suspensions and denials of licenses shall be in accordance with sections 314, 317 and 318 of this Chapter.
- 314 SUMMARY SUSPENSION**
- 314.1 The Director may summarily and immediately suspend a license, for a period of not more than forty-five (45) calendar days, upon finding that the health, safety, or welfare of children, adults, or of the general public is in immediate danger.

- 314.2 A summary suspension of a license is effective upon the delivery to the Facility of a Notice of Summary Suspension, which Notice must be hand-delivered to the licensee, or to an adult employee or family member of the licensee, at the licensed premises.
- 314.3 The Notice of Summary suspension shall state that the Facility may request an expedited hearing within five (5) business days of receipt of the Notice. The notice shall also comply with section 317 of this Chapter.
- 314.4 When a Facility's license is summarily suspended, the Director shall immediately repossess the license, and the Facility shall immediately cease providing child care.
- 314.5 When a Facility's license is summarily suspended, the Facility shall be responsible for providing parents with written notification of the suspension and for informing them of the need to make alternative child care arrangements. The Facility must also provide the Director with a copy of the written notification.
- 314.6 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days of the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.
- 314.7 Upon completion of a hearing conducted pursuant to this section and closure of the hearing record, the Office of Administrative Hearings shall determine either that the summary suspension was warranted, in which case the suspension shall continue for a period not to exceed forty-five (45) days from the date of the decision, or that the summary suspension was unwarranted, in which case the suspension shall immediately cease and the license shall be immediately returned to the Facility.
- 314.8 At or before the end of the suspension period, the Director shall either reinstate the license or initiate procedures for the revocation of the license.
- 314.9 A license that has been summarily suspended may be reinstated before the end of the suspension period if the Director determines that the Facility is in substantial compliance with the Act and with this Chapter.

315 PROVISIONAL AND RESTRICTED LICENSES

- 315.1 As an alternative to denial, suspension or revocation of a license, when a Facility has one or more deficiencies that jeopardize the health, safety or welfare of children, staff or the general public, the Director may:
- (a) Issue a provisional license if the Facility is taking appropriate ameliorative action in accordance with a timetable established by the Director; or

DISTRICT OF COLUMBIA REGISTER

- (b) Issue a restricted license that prohibits the Facility from accepting new children or from delivering certain specified services that it would otherwise be authorized to deliver.

315.2 A provisional license may be issued to a new Facility in order to afford the Director sufficient time and evidence to evaluate whether a new Facility is capable of complying with the provisions of the Act, this Chapter, or any other applicable federal or District of Columbia law.

315.3 A provisional license may be granted for a period not to exceed ninety (90) days, and may be renewed no more than once.

315.4 The issuance of provisional and restricted licenses may be:

- (a) Summary actions implemented in accordance with procedures set out in section 314 of this Chapter; or
- (b) Non-summary enforcement actions implemented in accordance with procedures set out in sections 317 and 318 of this Chapter.

316 CEASE AND DESIST

316.1 If the Director determines that a Facility, an entity, or a person has violated any provision of the Act or of this Chapter, and that the violation presents an imminent danger to children, adults, or to the general public, the Director may issue a written Order directing the Facility, entity or person to cease and desist from the violation.

316.2 The written Order to cease and desist shall be delivered in accordance with the procedures set forth in section 317 of this Chapter. The Order shall state that the Facility, entity or person may request an expedited hearing within five (5) business days of receipt of the Order. If no request for a hearing is made, the Order shall be final.

316.3 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days of the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.

316.4 Upon completion of a hearing conducted pursuant to this section and closure of the hearing record, the Office of Administrative Hearings shall determine whether the Order to cease and desist was warranted, and shall issue an Order to that effect.

DISTRICT OF COLUMBIA REGISTER

317 SERVICE OF NOTICE FOR ENFORCEMENT ACTIONS

- 317.1 A Notice must be provided by the Director to the Facility or applicant before the Director may take any of the following enforcement actions:
- (a) Denial of issuance of a license;
 - (b) Denial of renewal of a license;
 - (c) Suspension of a license;
 - (d) Revocation of a license; or
 - (e) Issuance of a provisional or restricted license.
- 317.2 A Notice required by this section may be served personally, or by certified mail, return receipt requested, directed to the applicant or Facility at the last known address as shown in the Department's records, or at the address of the Facility premises.
- 317.3 A copy of the Notice shall be delivered to the Office of Administrative Hearings within one day of service of the Notice.
- 317.4 A Notice served personally is deemed served when it is delivered to the applicant or licensee, or to an adult employee or family member of the applicant or licensee, at the licensed premises or at the last known address.
- 317.5 A Notice served by certified mail is deemed served on the date written or stamped upon the return receipt, indicating delivery of the Notice to the applicant or licensee or refusal of the applicant or licensee to accept delivery of the Notice.
- 317.6 In the event that the applicant or licensee is not found at the address of the Facility nor at the last known address as shown in the records of the Department, and no forwarding address is available, the Notice shall be deemed served on the date that the return receipt bearing such notification is returned to the Director.
- 317.7 A Notice of a proposed enforcement action shall include the following:
- (a) The nature of the proposed enforcement action;
 - (b) The effective date of the proposed action;
 - (c) A description of, and citation for, each violation alleged;
 - (d) In the case of a license suspension, the time period of the proposed suspension;

- (e) A statement informing the applicant or Facility that it may make a request for a hearing by submitting a written request to the Office of Administrative Hearings within ten (10) days of receipt of the Notice, or, in a matter in which a different time period is prescribed by law, within the applicable time period;
- (f) A statement informing the applicant or Facility that the proposed action may become final without a hearing if the applicant or Facility fails to request a hearing within the time and in the manner specified; and
- (g) In the case of a license suspension, revocation, or conversion, a statement informing the Facility that it will be required to surrender its license upon final action to suspend, revoke, or convert the license to provisional or restricted status.

318 HEARINGS

- 318.1 Hearings shall be conducted by the Office of Administrative Hearings in accordance with this Chapter and pursuant to rules and procedures established by that Office.
- 318.2 Parties may participate in settlement negotiations prior to a hearing, and may enter into a negotiated settlement agreement or consent decree in lieu of a hearing.
- 318.3 In each matter in which a hearing is requested, the Office of Administrative Hearings shall maintain an official record, and shall render its final decision in writing to all parties, accompanied by findings of fact and conclusions of law.
- 318.4 Each hearing shall be conducted in accordance with the requirements of section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Official Code § 2-509), unless otherwise provided in this Chapter or in rules established by the Office of Administrative Hearings.

319 JUDICIAL REVIEW

- 319.1 Any person aggrieved by a final decision of the Director or of the Office of Administrative Hearings may appeal the decision to the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510).

320 CIVIL FINES, CRIMINAL PROSECUTION AND INJUNCTIONS

- 320.1 Civil fines and penalties may be imposed for any violation of the Act or of this Chapter, pursuant to the District of Columbia Department of Consumer and

Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.01 *et seq.*) (hereinafter "Civil Infractions Act"). Adjudication of all charged infractions shall be conducted pursuant to Titles I through III of the Civil Infractions Act. Hearings shall be conducted in accordance with section 318 of this Chapter.

- 320.2 Any violation of the Act may result in criminal prosecution, whereupon the violator shall, upon conviction, be subject to imprisonment not to exceed six (6) months, or a fine not to exceed \$300.00, or both. Each unlawful act shall constitute a separate violation of this Chapter. Prosecutions shall be brought by the Attorney General for the District of Columbia in the Superior Court of the District of Columbia.
- 320.3 Any person who has been previously convicted of an offense in violation of the Act shall, upon a subsequent conviction for the same offense, be subject to imprisonment not to exceed one (1) year, or a fine not to exceed \$5,000.00, or both.
- 320.4 In any prosecution conducted for violation of the Act, a Child Development Facility claiming an exemption from a licensing requirement shall have the burden of proving entitlement to the exemption.
- 320.5 The Attorney General may bring a civil action in the Superior Court of the District of Columbia to enjoin any violation of the Act.
- 321 NOTICE REQUIREMENTS FOR CHANGES IN OPERATION**
- 321.1 Each Facility must inform the Director, in writing, of any of the following planned changes in operation no less than ten (10) days before implementation of the change(s):
- (a) Change of ownership;
 - (b) Change in location, name and/or telephone number of the Facility;
 - (c) Renovation or alteration of the premises that substantially changes the indoor or outdoor space of the Facility;
 - (d) In the case of a Child Development Home, the inclusion of an additional member in the household, including the new member's criminal history, if any;
 - (e) In the case of a Child Development Home, a change in primary Caregiver(s);

- (f) In the case of a Child Development Center, a change in Program Director; or
- (g) A significant change in the operation of the program, including but not limited to hours of operation, services provided, or capacity load.

321.2 If a Facility undergoes any of the changes in operation listed in subsection 321.1 without the change being planned in advance, the Facility shall notify the Director immediately.

321.3 Upon notification of the proposed change(s), the Director may inspect the Facility to evaluate the impact of the change(s) on the provision of child development services.

321.4 The Director shall issue an amended license, consistent with the approved change(s), as required by and subject to the provisions of this Chapter.

322 REPORTING UNUSUAL INCIDENTS

322.1 Each Facility must immediately report, to the Director, to the Office of Early Childhood Development of the Department of Human Services for those providers that participate in the Child Care Subsidy Program, and to the parent(s)/guardian(s) of each affected child, any unusual incident that may adversely affect the health, safety or well-being of any child or children in the Facility. Unusual incidents include, but are not limited to, the following:

- (a) Death of a person occurring within the Facility;
- (b) Injury to, or illness of, any child that occurs during the hours the child is enrolled in care and that requires hospitalization or emergency medical treatment;
- (c) Damage to the Facility, or to any Facility vehicle or equipment, that interferes with the capability of the Facility to protect the health, safety and well-being of the children and adults in the Facility;
- (d) The presence of any individual in the Facility who has, or is suspected of having, a communicable disease that must be reported to the District of Columbia Department of Health in accordance with Title 22 of the District of Columbia Municipal Regulations;
- (e) The elopement of an enrolled child or any circumstances under which a child is deemed missing or unaccounted for;

- (f) A traffic accident involving a vehicle owned, maintained, or contracted for by the Facility and in which children are being transported at the time of the accident; and
 - (g) Any other occurrence at the Facility that involves a response by police, fire, ambulance, or any other emergency service.
- 322.2 The Facility must also submit to the Director, on a form approved by him or her, and to the Office of Early Childhood Development of the Department of Human Services for those providers that participate in the Child Care Subsidy Program, a written report of the unusual incident, within seventy-two (72) hours of the incident.
- 322.3 In the case of a traffic accident or an incident involving actual or suspected criminal activity, the Facility must also file a report with the appropriate law enforcement authorities.
- 322.4 Any Facility staff member who receives information concerning, or personally observes, an incident of alleged or actual child abuse or neglect, or who has any other information indicating an alleged or actual risk to an enrolled child's health or safety, shall also make or cause to be made an immediate oral report, and a written report, within twenty-four (24) hours, to:
 - (a) The Child and Family Services Agency twenty-four (24) hour Child Abuse and Neglect Hotline (202-671-SAFE); or
 - (b) The Metropolitan Police Department.
- 322.5 In the oral and written report required by section 322.4, the staff member shall state:
 - (a) The name, age, sex and address of the child who is the subject of the report;
 - (b) That the child who is the subject of the report is enrolled at the Facility;
 - (c) The name, address and telephone number of the Facility;
 - (d) The name, title, occupation, address and telephone number of the staff member making the report;
 - (e) The person responsible for or believed to be responsible for the alleged or actual abuse or neglect, or alleged or actual risk to the child's health or safety;

- (f) Any previous known reports of alleged or actual child abuse or neglect, or alleged or actual risk to the child's health or safety;
- (g) Any other information which may be helpful in establishing the cause of the alleged or actual child abuse or neglect, or alleged or actual risk to the child's health or safety; and
- (h) Any other information required by law, including but not limited to the requirements contained in section 103(c) of The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22, D.C. Official Code § 4-1321.02).

322.6 Each Facility shall:

- (a) Provide training to all staff regarding the Facility's policies and procedures relating to child abuse, neglect, and risk to a child's health or safety, including how to report suspected abuse, neglect, or risk to a child's health or safety;
- (b) Require staff to immediately report, and to cooperate with officials investigating, alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety;
- (c) If any Facility staff member is identified as allegedly responsible for the alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, place that staff member on administrative leave or reassignment to duties involving no contact with children until the investigation conducted by authorized government officials is complete; and
- (d) Ensure that staff may report incidents involving alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, without threat of discharge or other retaliation.

323 ADMINISTRATIVE RECORDS ON OPERATIONS

- 323.1 A Facility shall maintain all required licenses and permits, and shall post in a conspicuous place the Certificate of Occupancy or Home Occupation Permit, all current fire, health and safety inspection approvals, and any variances received.
- 323.2 Records of complaint investigations and fire and emergency evacuation drills shall be immediately accessible and available for inspection by government officials, and shall be made available for inspection by the public subject to the limitations contained in subsection 324.8 of this Chapter.

- 323.3 The Facility shall maintain a log of unusual incidents reported in accordance with section 322 of this Chapter.
- 323.4 The Facility shall maintain records documenting any adverse action the Facility takes against an employee, volunteer or household member related to any substantiated crimes against children. The adverse action shall be reported as an unusual incident in accordance with section 322 of this Chapter.
- 323.5 The Facility shall maintain service and repair records, in a single location on the licensed premises, for all motor vehicles that are owned or leased for purposes of transporting enrolled children. The Facility shall maintain each record for at least twelve (12) months after the date of the inspection or repair.

324 ADMINISTRATIVE RECORDS ON CHILDREN

- 324.1 The Child Development Facility shall maintain a record for each enrolled child, and shall retain the record for three (3) years following the termination of that child's enrollment. All records required by this section shall be made available for inspection.
- 324.2 The Facility shall maintain current records and information on children, including:
- (a) Roster of enrolled children by age group;
 - (b) Daily attendance records by names of children, including first name, last name and middle initial of each child;
 - (c) Daily menu plan for feeding the children indicating the foods actually served on a daily basis;
 - (d) Daily schedule of activities; and
 - (e) Health records on enrolled children pursuant to section 325 and as otherwise provided in this Chapter.
- 324.3 Each Facility shall maintain a register that shall include the following information for each child currently enrolled:
- (a) The child's full name;
 - (b) The child's gender;
 - (c) Date of birth;
 - (d) Date of admission;

- (e) Home address and telephone number;
- (f) Full names of parents or guardians;
- (g) Business addresses and telephone numbers of parents or guardians;
- (h) Designation of individuals, with photo identification, authorized to receive the child at the end of each session;
- (i) Name and telephone number of individual to be contacted in emergencies when the parents or guardians are not available;
- (j) Date and reasons for the child's withdrawal;
- (k) Health information on each child as required by section 325 of this Chapter;
- (l) Written authorization(s) for the administration of medication as required by section 376 of this Chapter, if applicable;
- (m) For children in out-of-school care:
 - (1) The name of the school the child attends;
 - (2) The name and number of a contact person from that school; and
 - (3) If the child arrives at and leaves the Facility alone, the days and times at which the child should arrive and leave the Facility and the mode(s) of transportation that the child uses to travel to and from the Facility; and
- (n) A record of the child's developmental progress.

324.4

The Facility shall have a current Emergency Medical Treatment Authorization form on file for each child, granting permission to the Facility to obtain medical treatment in case of an emergency that occurs while the child is in the care of the Facility. The form shall be approved by the Director and shall include:

- (a) Signatures of the parent(s) or guardian(s);
- (b) Information on the child's/family's health insurance coverage and a copy of the health insurance policy or an insurance card for the child;
- (c) A list of the child's known illnesses and allergies; and

DISTRICT OF COLUMBIA REGISTER

- (d) In the event that any of this information changes, updated information and the date the updated information was added.

- 324.5 The Facility shall maintain on file a written, signed and dated statement from each child's parent(s) or guardian(s) authorizing the Facility to take the child on regularly scheduled trips from the Facility. The authorization shall include the child's name, and shall specify the mode of transportation, the frequency, and the destination of each such trip.
- 324.6 If the child is to be taken on a field trip that is not recorded as a routine trip, the Facility shall obtain a written authorization that includes the information required in subsection 324.5 in addition to the estimated time of departure and arrival.
- 324.7 Written permission shall be considered valid for all regularly scheduled trips as noted in the statement submitted pursuant to subsection 324.5 until withdrawn by the child's parent(s) or guardian(s).
- 324.8 The Facility shall not disclose information concerning an individual child or the child's parent(s) or guardian(s) to persons other than the Facility staff or government officials acting in the course of their duties, unless the parent(s) or guardian(s) grant written permission for the disclosure, or unless disclosure is necessary in an emergency situation.
- 324.9 The Facility shall inform the parent(s) or guardian(s) of all enrolled children, in writing, of the Facility's policy regarding disclosure of information.

325 CHILDREN'S HEALTH RECORDS

- 325.1 Each child attending a Child Development Facility shall, upon enrollment and prior to admission, submit to the Facility, on forms approved by the Mayor, complete documentation of a comprehensive physical health examination including age-appropriate screenings, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each performed by a licensed health care professional within one (1) year prior to the date of admission.
- 325.2 Each child attending a Child Development Facility shall annually submit to the Facility, on forms approved by the Mayor, complete documentation of a comprehensive physical health examination including age-appropriate screenings, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each performed by a licensed health care professional within one (1) year prior to the date of submission.
- 325.3 The Facility shall maintain, for each enrolled child, the documentation required under subsections 325.1 and 325.2, including:

- (a) The full name, gender, date of birth, and home address of the child;
- (b) The dates of the physical and oral health examinations;
- (c) The child's height and weight at the time of the physical health examination;
- (d) Each licensed health care practitioner's clinical findings, concerns, and recommendations;
- (e) The child's significant health history, including allergies, health conditions, communicable illness, and restrictions;
- (f) Specific immunizations received by month, day and year;
- (g) Results of tuberculosis exposure risk assessment, and of testing where indicated;
- (h) Results of lead exposure risk assessment, and of testing in accordance with subsections 325.4 and 325.5;
- (i) Identification of long-term medications and special health care requirements or accommodations; and
- (j) The name, address, phone number and signature of the examining licensed health care practitioner.

325.4 In addition to the information otherwise required under this section, each child under six (6) years of age attending a Child Development Facility shall submit, and the Facility shall maintain, documentation of the following with respect to blood tests for lead poisoning:

- (a) Proof that the child was tested between the ages of six (6) months and nine (9) months, and again between the ages of twenty-two (22) months and twenty-six (26) months; or
- (b) Proof that, if the child was not tested before the age of twenty-six (26) months, the child was or will be tested two (2) times before the age of six (6) years; or
- (c) Proof that lead testing for the child complies with any applicable Federal or District of Columbia law, enacted after the effective date of these rules, that requires lead testing for children under the age of six (6) years.

325.5 Blood tests for lead poisoning shall be conducted, and results shall be

disseminated and maintained, in accordance with the Childhood Lead Poisoning Screening and Reporting Act of 2002, effective October 1, 2002 (D.C. Law 14-190, D.C. Official Code § 7-1031 *et seq.*)

326 EXCLUDING AND READMITTING CHILDREN WHO ARE ILL

- 326.1 A child who exhibits one or more symptoms of illness identified in subsection 326.6 shall not attend the Facility.
- 326.2 When the Facility staff observes one or more symptoms of illness identified in subsection 326.6, the child's parent(s) or guardian(s) shall be notified immediately. The Facility shall require that the parent(s) or guardian(s) remove the child from the Facility.
- 326.3 The Facility shall isolate a child who becomes ill or is suspected of being ill. The child shall remain within sight and hearing of a staff member.
- 326.4 Facility staff shall carefully observe a child in isolation for the presence of, or change in, any symptoms identified in subsection 326.6.
- 326.5 Facility staff shall ensure that a child who is ill or suspected of being ill does not share any personal hygiene or grooming items.
- 326.6 Symptoms of illness requiring exclusion from the Facility include, but are not limited to, the following:
- (a) Diarrhea, *i.e.*, runny, watery or bloody stools;
 - (b) Vomiting two (2) or more times in a twenty-four (24) hour period;
 - (c) Body rash with fever;
 - (d) Sore throat with fever or swollen glands;
 - (e) Eye drainage with thick mucus or pus draining from the eye;
 - (f) Pink eye, *i.e.*, colored drainage, eye pain and/or redness of the eye;
 - (g) Yellowish skin or eyes;
 - (h) Fever accompanied by rash, vomiting, diarrhea, earache, irritability or confusion; or
 - (i) Continuous irritable crying that requires more attention than the Facility can provide without compromising the health and safety of other children.

- 326.7 The Facility shall observe each child for the presence of symptoms that may indicate a medical problem, which problem may require exclusion from the Facility, isolation from other children, and/or consultation with the child's parent(s), guardian(s) or licensed health care practitioner(s). The following are examples of conditions that may indicate the existence of a medical problem:
- (a) Fever;
 - (b) Lethargy or inability to walk;
 - (c) Respiratory problems, including: increased respiratory rate; retractions in the chest; excessive nasal flaring; audible persistent wheezing; persistent coughing, either productive or nonproductive; severe coughing causing redness or blueness in the face; or difficulty in breathing;
 - (d) Abdominal and urinary system problems including: intestinal parasites, dark urine, white spots in the stool, increased urgency or frequency of urination, or no urination for an entire day;
 - (e) Cardiac problems, including: choking, change in color of the skin, chest pain, or persistent sweating;
 - (f) Ear problems, including discharge from the ear and/or ear pain;
 - (g) Throat and mouth problems, including: sores on the lips or in the mouth, white patches in the mouth, throat pain, or a dental problem that needs immediate attention; and
 - (h) Injuries, including: persistent bleeding, oozing wounds, apparent fracture, complaint of persistent bone pain or stiffness, or difficulty with the movement of any extremity.
- 326.8 A child who exhibits one or more symptoms of illness identified in subsection 326.6 may be readmitted to the Facility only with written permission, and written instructions for continuing care if needed, from the child's licensed health care practitioner.
- 326.9 If a child exhibits mild symptoms of illness and/or discomfort, the Program Director or his/her designee, or the Caregiver, in consultation with the child's parent(s) or guardian(s), shall decide whether the child should be immediately discharged or discharged at the end of the day.

**327 ADMINISTRATIVE RECORDS ON STAFF OF ALL FACILITIES AND
ON PERSONS RESIDING IN HOME FACILITIES**

327.1 Each Facility shall maintain, on the Facility premises, the following information for each employee:

- (a) The full name, gender, social security number, date of birth and home address;
- (b) Position title and job description;
- (c) Documentation and results of criminal and background history checks in accordance with this Chapter and with all other applicable federal and District of Columbia laws and rules;
- (d) A copy of the employee's resume, required degrees, certificates, transcripts, and letters of reference;
- (e) Verification of the employee's orientation to his/her duties and responsibilities and to the Facility's policies and procedures;
- (f) An ongoing record of continuing education;
- (g) Pediatric First Aid and CPR Certification, as required;
- (h) Date of appointment to, or withdrawal from, any position in the Facility;
- (i) Reason for withdrawal from a position; and
- (j) A copy of the employee's signature.

327.2 The Facility shall maintain a health record for each staff member, including paid employees, volunteers, and interns, who serve ten (10) or more hours per week at the Facility, which shall include the following:

- (a) Results of a pre-employment physical examination of the staff member by a licensed health care practitioner, not more than thirty (30) days prior to the start of employment, volunteer work or internship;
- (b) Results of an annual physical examination of the staff member by a licensed health care practitioner;
- (c) Written and signed documentation from the examining licensed health care practitioner that the staff member, at the time of his or her examination, was free from tuberculosis and apparent communicable disease;

- (d) Written and signed documentation from the examining licensed health care practitioner that the staff member, if noted to have an identified medical problem, is capable of caring for children in a licensed Child Development Facility;
- (e) Health insurance information, if applicable; and
- (f) The names and phone numbers of the staff member's primary licensed health care practitioner and of an emergency contact person.

327.3 Each Child Development Home shall obtain and maintain documentation establishing that each person living in the home that houses the Facility has been, within the preceding one (1) year period, examined by a licensed health care professional and certified by that professional to be free of communicable disease.

328 CRIMINAL AND BACKGROUND HISTORY CHECKS

328.1 The Child Development Facility shall inform every applicant for employment of the following requirements:

- (a) In the case of Facilities providing services under contract with the District of Columbia, the applicant must satisfactorily complete a criminal background check and a child protection register check before he or she can be unconditionally employed;
- (b) In the case of Facilities not under contract with the District of Columbia, the applicant must satisfactorily complete a child protection register check before he or she can be unconditionally employed;
- (c) The applicant must provide the Facility with either: the certified results of a child protection register check, and of a criminal background check if required pursuant to subsection (a), completed within the three (3) months preceding application; or with all information that will facilitate the obtaining of a child protection register check, and a criminal background check if required, of the applicant by the Facility, including each state in which the applicant has resided or worked, the applicant's social security number, and all names the applicant has used;
- (d) The applicant has the right to obtain a copy of the criminal background check and child protection register check report(s) and to challenge the accuracy and completeness of the report(s);
- (e) The Facility, if providing services under contract with the District of Columbia, shall deny employment to any person who has been convicted

of an offense listed in section 313 of this Chapter, or its equivalent, in the District of Columbia or in any other jurisdiction;

- (f) The Facility shall deny employment to any person who has been adjudicated as a child abuser or neglecter, or who has been determined, following a proceeding in which due process rights were afforded, by the applicable child protection agency or authority to have been a child abuser or neglecter, in the District of Columbia or in any other jurisdiction; and
- (g) The Facility may deny employment to the applicant until the results of the child protection register check, and the criminal background check if required, are final.

- 328.2 All records of criminal background checks and child protection register checks of applicants and employees shall be confidential.
- 328.3 The Facility shall require the applicant to provide the names of and contact information for at least three (3) references, who shall be unrelated to the applicant. The Facility shall check at least three (3) references for each applicant, and shall ascertain that the applicant is suitable for employment in a position of close interaction with children, prior to employment of the applicant.
- 328.4 The Facility shall maintain a record of the reference checks performed for each applicant. The record shall include either: a signed and dated letter of reference received by the Facility; or documentation of a reference check conducted by telephone, including the name of the Facility licensee, Caregiver, Program Director, or designee conducting the check, the name and telephone number of the reference, the date of the check, and written comments regarding the check.
- 328.5 The Facility may enter into a conditional employment agreement with an applicant pending the outcome of the criminal background check, if required, and of the child protection register check, provided that the applicant submits to the Facility a signed notarized statement affirming that he or she has not been convicted of any offense listed in section 313 of this Chapter nor has been placed on a child protection register, and that the reference checks indicate that the applicant is suitable for employment in a position of close interaction with children.
- 328.6 No Facility shall be subject to civil liability that, in good faith, relies on a criminal background check, a child protection register check, or a reference check to terminate, or to refuse to offer employment to, any individual.
- 328.7 The criminal background check and child protection register check requirements shall not apply to a volunteer or intern who works under the direct supervision of the licensee or of his or her designee.

DISTRICT OF COLUMBIA REGISTER

- 328.8 An updated child protection register check, and an updated criminal background check if required, shall be conducted for each paid staff member no less than once every two (2) years.

329 POLICIES AND PROCEDURES ON DISCIPLINE

- 329.1 The Facility shall have a written policy describing the philosophy of discipline and the specific methods of discipline that the Facility uses. Discipline shall be constructive and developmentally appropriate, and shall include child guidance and management techniques using redirection, separation from the problem situation, talking with the child about the situation, and praise for appropriate behavior.
- 329.2 The methods of discipline described in the policies and procedures shall be utilized by all Facility staff, including employees, volunteers, and interns.
- 329.3 The following methods of discipline shall not be employed:
- (a) Physical harm, including punching, pinching, shaking, spanking, biting, yanking and poking;
 - (b) Fear and/or humiliation;
 - (c) Derogatory remarks and/or profane language;
 - (d) Confinement in a locked room or enclosed area;
 - (e) Forced feeding, or withholding of food, rest, toilet use or outdoor activities or play; and
 - (f) Physical and/or chemical restraints.
- 329.4 Separation, when used as discipline, shall be brief in duration and shall be appropriate to the child's age and developmental level and to the circumstances necessitating the discipline. Any child separated must be placed in a safe, lighted, well-ventilated room, within the sight and hearing of an adult at all times.
- 329.5 Authority to discipline shall never be delegated to another child.
- 329.6 The parent or guardian of each child enrolled in the Facility shall receive a copy of the Facility's discipline policy.
- 330 POLICIES AND PROCEDURES ON FACILITY OPERATIONS**
- 330.1 The Facility shall develop and implement policies and procedures in the following areas:

- (a) Admissions and enrollments, including policies related to children with disabilities, illness or other special needs;
- (b) Ages of children accepted;
- (c) Days, hours, and periods of operation;
- (d) Type(s) of child care services provided;
- (e) Provision of meals and snacks;
- (f) Fees and payment plans, including fees for different types of services and/or specific services, and refund policy;
- (g) Transportation arrangements;
- (h) Provisions for children with special needs, including arrangements that must be made by parent(s) or guardian(s);
- (i) Emergency evacuation;
- (j) Emergency medical care;
- (k) Administration of medication;
- (l) Reporting unusual incidents;
- (m) Reporting and responding to reportable communicable diseases;
- (n) Staff qualifications;
- (o) Procedures regarding sanitation practices;
- (p) Animals and pets in the Facility;
- (q) Grievance procedures;
- (r) Parents' and guardians' participation in and access to the Facility, including opportunities to communicate with teachers concerning their child's development, and information parents and guardians should share with the Facility regarding their child's health status;
- (s) Periodic reporting of the child's progress to the parent(s) or guardian(s); and

- (t) Any other policies or procedures that may be required by this Chapter.

331 GENERAL PERSONNEL REQUIREMENTS FOR CENTERS

- 331.1 In each Child Development Center, the program shall be managed by a Program Director, who shall be assisted by teachers, assistant teachers, aides, group leaders, and assistant group leaders as further specified in this Chapter, and by volunteers and/or interns if desired.
- 331.2 Each employee, volunteer or intern shall be mentally and physically able to perform the duties assigned to him or her.
- 331.3 The Facility shall not permit a person with a reportable communicable disease to be on duty in program space, or in common indoor or outdoor spaces utilized by the children, or to have contact with a child in care, without the written approval of a licensed health care practitioner.
- 331.4 Staff and visitors to the Facility shall not smoke or use tobacco products in program areas while children are in care, and tobacco products shall be kept out of the reach of children in care.
- 331.5 When children are in the care of the Facility, either on the premises or off-site, no staff member shall be under the influence of, or consume, alcoholic beverages or illegal drugs.
- 331.6 All paid staff currently employed in a licensed Child Development Center shall have three (3) years from the effective date of these regulations to meet the specific qualification requirements, as provided by this Chapter, for their positions.

332 PROGRAM DIRECTOR QUALIFICATIONS

- 332.1 The Program Director in a Child Development Center shall meet one of the following qualification requirements:
- (a) A bachelor's or master's degree from an accredited college or university in early childhood education or early childhood development;
 - (b) A bachelor's or master's degree from an accredited college or university with at least fifteen (15) college credit hours in early childhood education or early childhood development, and one year of experience working under supervision with a group of children in a state-approved or licensed Child Development Facility;
 - (c) An associate's degree from an accredited college or university in early childhood education or development, and three (3) years supervised

experience working with a group of children in a state-approved or licensed Child Development Facility;

- (d) A minimum of forty-eight (48) college credit hours, including fifteen (15) college credit hours in early childhood education or early childhood development, and four (4) years experience working under supervision with a group of children in a state approved or licensed Child Development Facility; or
- (e) Employment as a qualified Program Director in a licensed Child Development Facility in the District of Columbia or another jurisdiction on the effective date of these rules, provided that the Program Director:
 - (1) Achieves compliance with either (a), (b), (c), or (d) within two (2) years; or
 - (2) Acquires twelve (12) additional college credit hours in applicable subjects within two (2) years and achieves compliance with (d) within three (3) years.

332.2

For the purposes of this section, early childhood development or early childhood education includes courses in any of the following subject areas:

- (a) Growth and development of children ages birth to five (5) years of age; or birth to eighteen (18) years of age for persons who work exclusively with children with special needs; or four (4) years of age to (14) years of age for persons who work with school-age children;
- (b) Children with special needs;
- (c) Child health, including: abuse and neglect recognition and prevention; first aid and CPR; and prevention, recognition, and management of communicable diseases;
- (d) Language literacy and development;
- (e) Use of physical space and play equipment;
- (f) Working with parents and families;
- (g) Nutritional education and the nutritional needs of children;
- (h) Community health and social services resources for families and children;
- (i) Planning child development programs and activities for children ages birth to five (5) years of age, or birth to eighteen (18) years of age for persons

who work exclusively with children with special needs, or four (4) years of age to fourteen (14) years of age for persons who work with school-age children;

- (j) Classroom management, including helping children to build self-control and self-esteem;
- (k) Appropriate discipline methods and techniques;
- (l) Administration of a Child Development Facility;
- (m) Medication administration;
- (n) Diversity; and
- (o) Any other areas as determined by the Director.

332.3 The Program Director shall attend an annual regulatory compliance review session presented by or under the auspices of the Department of Health.

333 DUTIES AND RESPONSIBILITIES OF PROGRAM DIRECTORS

333.1 The Program Director shall be physically present in the Facility at least one-half (1/2) of the time during the Center's hours of operation.

333.2 The Program Director shall be responsible for the supervision, program planning and administration of the Child Development Center and its staff, consistent with the written operational policies and philosophy, and shall assume the following responsibilities:

- (a) Ensuring compliance with the requirements of this Chapter, and with all applicable federal and District of Columbia laws;
- (b) Selecting and supervising qualified staff;
- (c) Providing orientation and training to each staff member as required;
- (d) Designating a teacher to assume responsibility for the Facility's operation in the absence of the Program Director;
- (e) Ensuring that adult/child ratios are maintained in compliance with section 343 of this Chapter;
- (f) Ensuring parent involvement in the program and in the activities of the Center;

- (g) Reporting unusual incidents as defined in section 399 and in accordance with section 322 of this Chapter;
- (h) Ensuring that at least one (1) staff member with a current CPR and Pediatric First Aid certification is present on the Facility premises at all times;
- (i) Attending in-service training programs and completing continuing education requirements as specified; and
- (j) Reporting evidence of child abuse and neglect that comes to the Facility staff's attention, in accordance with section 322 of this Chapter.

334 TEACHER QUALIFICATIONS

334.1 A teacher in a Child Development Center shall be at least twenty (20) years of age and shall meet one of the following qualification requirements:

- (a) A bachelor's degree from an accredited college or university in early childhood education or early childhood development;
- (b) A bachelor's degree from an accredited college or university and certification as a Child Development Associate; or
- (c) A bachelor's degree from an accredited college or university and fifteen (15) college credit hours in early childhood development or early childhood education.

334.2 For the purposes of this section, early childhood development and early childhood education shall include the courses listed in section 332.2 of this Chapter.

335 DUTIES AND RESPONSIBILITIES OF TEACHERS

335.1 The duties of each teacher in a Child Development Center shall include the following:

- (a) Assisting the Program Director in ensuring compliance with this Chapter,
- (b) Providing, and/or overseeing the provision of, adequate supervision and appropriate care for all of the children in his or her class or group at all times;
- (c) Planning and initiating daily activities based on the assessed strengths, interests and needs of all of the children in his or her class or group;

- (d) Assisting the Program Director in implementing the Facility's policies and procedures;
- (e) Supervising subordinate staff;
- (f) Attending in-service training programs and completing continuing education requirements, as required;
- (g) Communicating regularly with the parent(s) or guardian(s) of each child in his or her class or group about the development of their children;
- (h) Assuming responsibility for the program of the Facility in the absence of the Program Director, if and when so designated; and
- (i) Performing other appropriate duties as requested by the Program Director.

336**ASSISTANT TEACHER QUALIFICATIONS****336.1**

An assistant teacher in a Child Development Center shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:

- (a) Two (2) or more years of study in an accredited college or university, plus demonstrated skill and competence with young children as satisfactorily determined by the Program Director;
- (b) A high school diploma or General Education Development certificate, plus certification of training and competence in the field of early childhood education or early childhood development from an accredited vocational high school; or
- (c) A high school diploma or General Education Development certificate, plus one (1) year of supervised experience working with children in a licensed District of Columbia Child Development Center or other state licensed or approved Child Development Center.

336.2

For the purposes of this section, early childhood development and early childhood education shall include the courses listed in section 332.2 of this Chapter.

337**DUTIES AND RESPONSIBILITIES OF ASSISTANT TEACHERS****337.1**

The duties of each assistant teacher in a Child Development Center shall include the following:

- (a) Providing supervision and appropriate care to the children in his or her class or group, under the direct supervision of a teacher or the Program Director;

- (b) Assisting the teacher in planning the daily program of activities;
- (c) Assisting the teacher in regular communication with the parent(s) or guardian(s) of each child in his or her class or group about their children's development; and
- (d) Attending in-service training programs and completing continuing education requirements, as required.

338 CONTINUING EDUCATION REQUIREMENTS FOR STAFF IN CENTERS

338.1 Each paid employee of a Child Development Center whose duties and/or responsibilities include the care of enrolled children shall participate in at least eighteen (18) hours of training annually in the fields of child and youth development and/or early childhood education.

338.2 The required annual training shall include the following subject areas:

- (a) Standard health care precautions and communicable diseases;
- (b) Child abuse and neglect prevention, detection and reporting;
- (c) Age-appropriate programming for preschool and/or school-age children, as applicable;
- (d) The Americans With Disabilities Act;
- (e) Permissible and age-appropriate methods of child discipline; and
- (f) Child health promotion, including information on recognition of contagious disease symptoms and appropriate responsive action thereto.

338.3 The following subjects constitute acceptable areas for continuing education and training, as required by this section:

- (a) Growth and development of children: ages birth to five (5) years of age for persons who work with preschool-age children, four (4) to fourteen (14) years of age for persons who work with school-age children, and birth to eighteen (18) years of age for persons who work exclusively with children with special needs;
- (b) Children with special needs;
- (c) Child abuse and neglect recognition and prevention;

- (d) First aid and CPR;
- (e) Prevention, recognition, and management of communicable diseases;
- (f) Literacy;
- (g) Use of physical space and play equipment;
- (h) Communication and collaboration with parents and families;
- (i) Nutrition education and nutritional needs of children;
- (j) Community health and social services resources for children and families;
- (k) Planning child development programs and activities for children;
- (l) Classroom management, including helping children to build self-control and self-esteem;
- (m) Appropriate child discipline methods and techniques;
- (n) Administration of a Child Development Facility;
- (o) Medication administration;
- (p) Diversity; and
- (q) Any other areas as determined by the Director.

338.4 In-service training that meets the requirements of this Chapter may occur in a variety of settings, including, but not limited to: seminars; courses held by colleges, universities or technical schools; workshops, conferences, and association meetings; and accredited distance education, including training via the Internet.

338.5 Each Facility shall obtain and maintain adequate documentation of each staff member's participation in continuing education. Acceptable documentation shall include one or more of the following:

- (a) Transcript from an accredited college, university or technical school;
- (b) Certification of participation from a training source approved by the Distance Education Training Council;

- (c) Written documentation verifying completion of training in Pediatric First Aid, CPR, and/or common childhood illnesses; from acceptable sponsoring entities, including the American Red Cross, the American Heart Association, the National Safety Council, and other similarly recognized and accredited organizations; and
- (d) A signed and dated statement from the trainer, on a form approved by the Director, verifying the staff member's participation in a training program conducted by a qualified trainer approved by the Early Childhood Leadership Institute of the University of the District of Columbia.

338.6 Each volunteer or intern serving a Child Development Center shall participate, at least annually, in a training seminar, which shall include a review of the subject areas listed in subsection 338.2.

339 AIDES, VOLUNTEERS AND INTERNS

339.1 Each aide, volunteer or intern in a Child Development Center shall work under the direct supervision of a teacher, assistant teacher or Program Director at all times.

339.2 The duties of each aide, volunteer or intern in a center shall include the following:

- (a) Assisting the teacher, assistant teacher, and/or Program Director as directed;
- (b) Providing supervision and appropriate care to the children in his or her assigned class or group, under the direct supervision of a teacher, assistant teacher, or Program Director; and
- (c) Attending in-service training programs and completing continuing education requirements, as required.

339.3 The Facility shall ensure that no aide, volunteer or intern has sole responsibility for a group or classroom, or for the Center, at any time.

340 INDOOR PROGRAM SPACE IN CENTERS

340.1 For the purposes of this Chapter, "Program Space" is defined as space within the Facility, exclusive of: food preparation areas, kitchens, bathrooms, toilets, offices, staff rooms, corridors, hallways, stairways, closets, lockers, laundry rooms, furnace rooms, file cabinets, storage spaces, and non-movable furniture that is not designed for the use of enrolled children.

340.2 Each Facility shall provide adequate indoor space for the daily program of the Facility. The Director shall determine the licensed capacity of the Facility so that

there is a minimum of thirty-five square feet (35 ft²) of program space per child. The Facility shall maintain a minimum of thirty-five square feet (35 ft²) of program space per child at all times.

- 340.3 The average temperature within program space shall be a draft-free temperature of between sixty-five degrees Fahrenheit (65°F) and seventy-five degrees Fahrenheit (75°F) during the winter months, and a draft-free temperature of between sixty-eight degrees Fahrenheit (68°F) and eighty-two degrees Fahrenheit (82°F) during the summer months.
- 340.4 Each Facility shall provide a separate room, or a separate designated area within a room, for the temporary or ongoing care of a child who needs to be separated from the group due to injury or illness. This room or area shall be located so that any child placed within it is within sight and hearing of the Facility staff at all times, and so that toilet and lavatory facilities are readily accessible. This room or area may be used for other purposes when not needed for such separation of a child.
- 340.5 If a Child Development Center is located in a building that also houses other entities or persons, the portion of the building to which the children from the Facility have access shall be for the exclusive use of children and staff of the Facility during the Facility's hours of operation, with the exception of entryways, hallways, and other common areas in the building normally available for use by the public.
- 341 ADDITIONAL INDOOR PROGRAM SPACE REQUIREMENTS FOR INFANTS AND TODDLERS IN CENTERS**
- 341.1 The indoor program space for infant and toddler activities shall contain a minimum of thirty-five square feet (35 ft²) per child of unencumbered instructional and/or play space, or a minimum of forty-five square feet (45 ft²) per child of encumbered instructional or play space measured on the inside wall-to-wall dimensions.
- 341.2 For the purposes of this section, "Unencumbered Instructional and/or Play Space" means program space that is free of permanent fixtures, architectural structures, equipment, bedding, and furniture that are unrelated to the program, and "Encumbered Instructional and/or Play Space" means program space that is restricted by permanent fixtures, architectural structures, equipment, bedding, or furniture that are unrelated to the program.
- 341.3 Infants and non-ambulatory children may only occupy space on the street level, unless the Facility receives explicit written approval from the Department of Fire and Emergency Medical Services to care for infants and non-ambulatory children on another level.

342 OUTDOOR SPACE, EQUIPMENT AND SAFETY IN CENTERS

- 342.1 Each Child Development Facility shall provide suitable space for outdoor play. This play space shall be in an enclosed yard on the Facility premises, in a nearby park or playground, or in a rooftop play space that meets the requirements of this Chapter.
- 342.2 The Facility shall maintain the outdoor play space so that it is free of conditions that are, or might be, hazardous to the health and/or safety of children.
- 342.3 Each Facility shall provide a minimum of sixty square feet (60 ft²) of outdoor play space per child.
- 342.4 All outdoor play spaces shall comply with the requirements of the District of Columbia Building Code, and with the Facility's Certificate of Occupancy.
- 342.5 The Facility shall comply with the adult/child ratios listed in section 343 of this Chapter at all times when children are going to, using, or leaving the outdoor play space.
- 342.6 The Facility shall ensure that staff, while supervising a group of children in the outdoor play space, are able to summon another adult staff member if the need arises, without leaving the children unsupervised at any time.
- 342.7 The Facility shall ensure that the outdoor play space is supervised by adult staff in sufficient quantity and appropriate placement to ensure that all children are within sight and hearing of at least one staff member at all times.

343 GROUP SIZE AND ADULT/CHILD RATIOS

- 343.1 Each Child Development Center shall have at least two (2) staff persons caring for each group at all times. There shall be a teacher, who may also be the Program Director, and an assistant teacher or aide for each group at all times. During non-peak hours, before 8:30 a.m. or after 4:30 p.m., an assistant teacher may substitute for a teacher.
- 343.2 In part-day programs, operating no more than four (4) hours per day, the Facility may substitute a volunteer for an assistant teacher or aide.
- 343.3 For the purposes of this section, "Adult" means Program Director, teacher, assistant teacher or aide, and volunteer as specified in subsection 343.2.

- 343.4 The Facility shall maintain the following adult/child ratios and group sizes:

AGE OF CHILDREN	ADULT/CHILD RATIO	MAXIMUM SIZE OF GROUP
0 – 12 months	1:3	9
0 – 12 months	1:4	8
12 – 24 months	1:3	9
12 – 24 months	1:4	8
24 – 30 months	1:4	12
30 months through 3 years	1:8	16
4 years	1:10	20
5 – 7 years	1:15	30
8 – 10 years	1:15	30
11 – 13 years	1:15	30
14 – 15 years	1:15	30

- 343.5 In determining adult/child ratios and maximum group sizes for children up to twenty-four (24) months old, the maximum group size may increase by one child when the adult/child ratio decreases by one child per adult, as shown in the table above at subsection 343.4.
- 343.6 When children of different ages are combined in one group, the adult/child ratio for the youngest child shall apply.
- 343.7 When children are swimming or playing in water, including “baby” pools, “wading” pools, and full-depth pools, the Facility shall maintain the following adult/child ratios in addition to complying with the water safety requirements contained in section 368 of this Chapter:

AGE OF CHILDREN	ADULT/CHILD RATIO
0 – 24 months	1:1
24 months and above	Ratios in subsection 343.4 apply

344 GENERAL DAILY PROGRAM ACTIVITIES IN CENTERS

- 344.1 Each Child Development Center shall provide time each day for both quiet and active play, suitable to the ages and abilities of the children enrolled at the Facility.
- 344.2 Each Facility serving preschool-age children in a full-day program shall ensure that each such child has a minimum of one (1) hour of outdoor play each day.
- 344.3 The Facility shall devise and implement a program of activities suitable to the ages and abilities of all of the children enrolled at the Facility. A copy of the program schedule for each age group shall be furnished by the Facility to the Director for evaluation upon request.

- 344.4 The Director shall evaluate a Facility's program of activities, and shall approve it if the following requirements are met:
- (a) The program shall include outdoor play each day, except that in extremely inclement weather the program may substitute indoor gross motor play such as climbing, jumping, running, riding wheel toys, and sports;
 - (b) All play materials shall be arranged in an orderly fashion, at heights that allow young children to select, remove, and replace materials with a minimum of assistance during appropriate times throughout the daily program; and
 - (c) The program shall include a balance of both quiet and active play throughout the day.
- 344.5 The Facility shall ensure that its staff observe and follow the Facility's established program of activities.
- 344.6 The Facility shall develop a written activity plan for each group of children that implements the elements of the program of activities.
- 344.7 The Facility shall ensure that the daily activities for each group of children include both structured and unstructured times, and both staff-directed and child-initiated experiences.
- 344.8 The Facility shall ensure that its program of activities provides periods of rest, the duration and scheduling of which are appropriate to prevent fatigue and to meet the physical needs of the children enrolled at the Facility, taking into account the ages and developmental levels of the children. Each child in a full-day program shall have specific times designated for rest each day.
- 344.9 The Facility shall ensure that each child has a supply of clean, dry clothing in case of an emergency, and that staff promptly remove all wet or soiled clothing from a child and replace it with this clean and dry clothing.
- 345 GENERAL PERSONNEL REQUIREMENTS AND QUALIFICATIONS FOR OUT-OF-SCHOOL CARE PROGRAMS**
- 345.1 Each Child Development Center that provides out-of-school (before and after school) care, either alone or in conjunction with preschool care, shall have a Program Director.
- 345.2 The Program Director for a Center that provides out-of-school care shall meet the general qualification requirements for a Program Director for a Center, in accordance with section 332 of this Chapter.

- 345.3 The duties and responsibilities of the Program Director in a Center that provides out-of-school care shall include those contained in section 333 of this Chapter.
- 345.4 Each Child Development Center that provides out-of-school care in addition to serving preschool-age children shall provide care for the preschool-age children by teachers and assistant teachers who meet their respective qualification requirements in accordance with this Chapter.
- 345.5 Persons who meet the qualifications of teacher and assistant teacher in accordance with this Chapter are deemed to meet the qualifications of group leader and assistant group leader, respectively.
- 345.6 Each Child Development Center offering out-of-school care on the effective date of these rules shall comply with all personnel requirements contained in this Chapter within three (3) years following the effective date of these rules.
- 346 QUALIFICATIONS FOR GROUP LEADERS AND ASSISTANT GROUP LEADERS IN OUT-OF-SCHOOL CARE PROGRAMS**
- 346.1 For the purposes of this section, "Experience" means prior work with school-age children in a recreation, fine arts, camping, or academic setting. One year's experience equals 2,080 hours of work. Hours worked in several positions may be added to determine the total number of hours.
- 346.2 Courses in "out-of-school care" as used in this section include courses in the following areas:
- (a) Supervision of children;
 - (b) Health and safety;
 - (c) Developmentally appropriate practices for school-age children;
 - (d) Guidance, including group and individual guidance;
 - (e) Community service and service learning;
 - (f) Working with families;
 - (g) Community outreach; and
 - (h) Planning activities.
- 346.3 "Related field" as used in this section includes the fields of early childhood education, youth studies, child development, recreation, family consumer sciences

(home economics), elementary education, child psychology, psychology, sociology, and human development.

- 346.4 Each group leader in a Child Development Center that provides out-of-school care shall meet one of the following qualification requirements:
- (a) A bachelor's degree from an accredited college or university with specialization in a related field, plus one (1) year of experience;
 - (b) A bachelor's degree from an accredited college or university, plus at least nine (9) college credit hours in the fields of child and youth development and out-of-school care programs, plus six (6) months of experience;
 - (c) An associate's degree from an accredited college or university or two (2) years of satisfactorily-completed study at an accredited college or university, plus at least nine (9) college credit hours in the fields of child and youth development and out-of-school care programs, plus one (1) year of experience; or
 - (d) A high school diploma or General Education Development certificate, plus nine (9) college credit hours in the fields of child and youth development and out-of-school care programs, plus eighteen (18) months of experience.
- 346.5 Each assistant group leader in a child Development Center that provides out-of-school care shall be at least eighteen years of age and shall work under the direct supervision of a group leader.
- 347 **DUTIES AND RESPONSIBILITIES OF GROUP LEADERS AND ASSISTANT GROUP LEADERS IN OUT-OF-SCHOOL PROGRAMS**
- 347.1 The duties and responsibilities of each group leader shall include the following:
- (a) Supervising, assisting, and guiding the children in his or her assigned group;
 - (b) Assisting the Program Director in planning the program of care;
 - (c) Supervising subordinate staff; and
 - (d) Communicating regularly with the parent(s) or guardian(s) of each child in his or her group concerning their children.
- 347.3 The duties and responsibilities of each assistant group leader shall be to aid the group leader in guiding the activities of the children.

348 STAFFING AND GROUP SIZE FOR OUT-OF-SCHOOL PROGRAMS

- 348.1 The number of staff members, and their assigned duties, shall reflect the requirements of the program and individual differences in the needs of the children enrolled, and shall permit flexible groupings if necessary.
- 348.2 The adult/child ratios specified in section 343 of this Chapter shall apply except as specified further in this section.
- 348.3 The Director may approve reasonable variations to the prescribed group size limitations, taking into consideration the following areas:
- (a) Staff qualifications;
 - (b) Program structure and focus;
 - (c) Usable space; and
 - (d) The Facility's past history of compliance.
- 348.4 The Facility may count all staff members, including those who meet the qualifications of Program Director, group leader and assistant group leader, and other staff members over eighteen (18) years of age, in the required ratio, provided that each such staff member is so counted only for the time that he or she is directly caring for a group of children.
- 348.5 The Facility shall supervise all enrolled children at all times, including:
- (a) Arrivals of children;
 - (b) Departures of children;
 - (c) Field trips;
 - (d) Swimming and water activities;
 - (e) Transportation by vehicle; and
 - (f) Whenever an enrolled child is on the Facility premises.
- 348.6 Facility Staff shall have a written planned system to ensure that they know where all enrolled children are at all times.
- 348.7 The staff plan may permit different levels of supervision at different times, consistent with the level of risk involved in each activity.

348.8 The Facility shall not count housekeeping and food preparation service personnel in the adult/child ratios when they are engaged in housekeeping or food preparation.

348.9 The Facility shall ensure that its staff members keep each child within continuous visual and hearing range. When a child uses the toilet, the staff shall respect the child's privacy and supervise appropriately.

349 TRAINING FOR STAFF IN OUT-OF-SCHOOL PROGRAMS

349.1 All paid staff in Child Development Centers that provide out-of-school care shall meet the requirements for continuing education prescribed in section 338 of this Chapter concerning "Continuing Education." Continuing education courses for staff in out-of-school programs may include, but shall not be limited to, the following:

- (a) Recreation science, therapeutic recreation, and related courses;
- (b) Physical education for elementary schools;
- (c) Visual arts, including fine arts for elementary schools, arts & crafts, and graphic arts;
- (d) Music, including music for elementary schools and music education;
- (e) Dance, including classical dance, modern dance and dance play;
- (f) Science and technology;
- (g) Camping and outdoor recreation;
- (h) Multicultural activities;
- (i) Principles and techniques of guidance; and
- (j) Health and safety.

350 INDOOR SPACE REQUIREMENTS FOR OUT-OF-SCHOOL PROGRAMS

350.1 Each Child Development Center that provides out-of-school care shall comply with the program space requirements for Centers contained in section 340 of this Chapter.

350.2 The Facility shall ensure that adequate room is provided for all program activities, and shall:

- (a) Arrange the space to permit a range of activities, including physical games and sports, creative arts, dramatic play, quiet games, enrichment offerings, study, eating, and socializing;
- (b) Arrange the space so that various activities can occur simultaneously without disruption of one by another; and
- (c) Ensure that there is adequate and convenient storage space for equipment, materials, and the personal possessions of enrolled children and Facility staff.

351 CHILD DEVELOPMENT HOMES

- 351.1 A Child Development Home may be licensed to provide care for up to six (6) children, with no more than two (2) children being under two (2) years of age. For the purposes of this Chapter, the number of children in the Child Development Home, and the number of children under two (2) years of age, shall include all children age four (4) and younger who reside in the home of the Caregiver.
- 351.2 The Caregiver shall be responsible for compliance with all District of Columbia laws and regulations applicable to a Facility, including all sections in this Chapter unless specified to be applicable only to Child Development Centers.

352 CAREGIVER QUALIFICATIONS AND RESPONSIBILITIES

- 352.1 Each Child Development Home Caregiver shall meet the following requirements:
 - (a) Be at least eighteen (18) years of age;
 - (b) Have a high school diploma or a General Education Development certificate;
 - (c) Attend an annual regulatory compliance review seminar presented by the Department of Health;
 - (d) Attend at least three (3) child development-related training courses, approved by the District of Columbia government, per year, for a total of no less than nine (9) hours of training per year;
 - (e) Undergo a physical examination by a licensed health care practitioner at least annually, and obtain written and signed documentation, from the examining practitioner, that the Caregiver, at the time of the examination, is free of tuberculosis and other diseases in communicable form, and is physically capable of caring for children; and

- (f) Undergo training and obtain certification in Pediatric First Aid and CPR, and maintain documentation of current certification in both.

352.2 The duties of a Child Development Home Caregiver shall include, but shall not be limited to, the following:

- (a) Orienting each member of the Facility household to the standards and rules governing Child Development Homes;
- (b) Operating the home in compliance with all applicable laws and rules;
- (c) Supervising each enrolled child;
- (d) Ensuring that any other duties or activities performed on behalf of the household do not interfere with the supervision and care given to the enrolled children;
- (e) Ensuring that each person residing in the home has a physical examination by a licensed health care practitioner at least annually and that each is certified by the examining practitioner to be free of communicable disease;
- (f) Supervising and accompanying all visitors who are present in the home or on the grounds during the Facility's hours of operation;
- (g) Reporting to the Director, and to the parent(s) or guardian(s) of each affected child, any unusual incident or accident that occurs in the home, in accordance with the section 322 of this Chapter.
- (h) Ensuring that an adequate number of back-up personnel, qualified in accordance with the requirements set forth in this Chapter and registered with the Director, are engaged by the Facility and are available to be present at the Facility within fifteen (15) minutes' time of request, at all times during the Facility's hours of operation;
- (i) Developing and implementing written contingency plans, including written instructions for all Facility personnel and for all responsible household members, for use in case of emergencies, both medical and non-medical; and
- (j) Being responsible for the overall supervision and administration of the program of care provided to the enrolled children.

353 CHILD DEVELOPMENT HOME INDOOR SPACE REQUIREMENTS AND EQUIPMENT

- 353.1 Each Child Development Home must obtain approval from the Director for the use of all program space, and may only offer child care in approved space.
- 353.2 The Caregiver and/or Facility staff shall arrange the play space and the furniture in the approved program space within the Child Development Home so as to allow adequate room for active and quiet play and for individual and group activities.
- 353.3 Program space does not include: the food preparation areas within the kitchen, bathrooms, hallways, stairways, closets, laundry rooms or areas, furnace rooms, and storage spaces.
- 353.4 Each Child Development Home shall provide a sufficient amount, as determined by the Director or his or her designee, of age-appropriate toys, games, equipment, materials, and books to meet the needs of the children enrolled at the Facility.

354 CHILD DEVELOPMENT HOME GENERAL DAILY PROGRAM ACTIVITIES

- 354.1 Each Child Development Home Caregiver shall establish a planned program of activities for the Facility, based on the stage of development of each enrolled child. The Facility must ensure that its daily program shall:
- (a) Motivate and stimulate each child's cognitive, physical, social, emotional and creative development;
 - (b) Contain sufficient continuity and flexibility to meet the needs of each individual child as well as the needs of the group;
 - (c) Provide a balance of active and quiet learning through play;
 - (d) Provide both structured and unstructured times, and both Caregiver-directed and child-initiated experiences;
 - (e) Provide periods of rest, appropriate to the age and developmental needs of each child, including specific designated times for rest each day; and
 - (f) Provide a balance of indoor and outdoor activities.
- 354.2 If a Child Development Home provides out-of-school care to school-age children, the Facility shall develop a program of supervised activities that is designed for school-age children, and that includes, for each child:

- (a) Free choice of play;
- (b) Opportunities to run, jump and climb;
- (c) Opportunities for concentration, alone or in a group;
- (d) Time to read or to do homework;
- (e) Opportunities for creative activities; and
- (f) Opportunities for developing supportive relationships with the Caregiver and with peers.

355 CHILD DEVELOPMENT HOME OUTDOOR SPACE, EQUIPMENT AND SAFETY

- 355.1 In the absence of suitable outdoor space on the premises of the Child Development Home, such as a fenced yard, the Caregiver shall ensure that all enrolled children are given regular opportunities for safe play at one or more nearby parks or playgrounds.
- 355.2 Each outdoor play area in use by one or more enrolled children shall be visible to the Caregiver or other approved Facility staff at all times.
- 355.3 The Caregiver or other approved Facility staff shall supervise all children during all periods of outdoor play.
- 355.4 Each Child Development Home shall ensure that all outdoor play areas and equipment on the Facility premises are maintained in compliance with the applicable safety requirements of this Chapter, and that all play equipment conforms to the standards established by the Consumer Product Safety Commission, and by the American Society for Testing and Materials, for juvenile products.
- 355.5 If one or more enrolled children swim in a pool, lake or river while under the care of a Child Development Home, the Facility must adhere to the adult/child ratio requirements contained in section 343 of this Chapter, and to the requirements contained in section 368 of this Chapter concerning "Swimming and Water Safety."

356 HEALTH AND SANITATION REQUIREMENTS FOR CHILD DEVELOPMENT HOMES

- 356.1 Each Child Development Home shall comply with the health and sanitation requirements as set out in sections 370 and 371 of this Chapter, concerning "Handling Diapers, Training Pants and Toys" and "Hand Washing Practices".

- 356.2 The Facility shall maintain at all times, in a designated location that is readily available to staff and out of reach of children, an adequate quantity of first aid supplies for the number of children enrolled in the Facility.
- 356.3 The Facility shall ensure that no person, including the Caregiver, staff, residents, and visitors to the home, smokes or uses tobacco products within the program space when one or more children is in the care of the Facility.
- 356.4 The Facility shall ensure that all tobacco products that may be present in the Facility remain out of the reach of enrolled children at all times.
- 356.5 When children are in the care of the Facility, either on the premises or off-site, no Caregiver or other staff member shall be under the influence of, or consume, alcoholic beverages or illegal drugs.

357 EXPANDED CHILD DEVELOPMENT HOMES

- 357.1 Each Expanded Child Development Home may be licensed to provide care for more than six (6) children, up to a maximum of twelve (12) children.
- 357.2 Each Expanded Child Development Home shall comply with all of the requirements of this Chapter pertaining to Child Development Homes, and with the following additional requirements:
- (a) Each Expanded Child Development Home shall have at least two Caregivers; and
 - (b) Each Expanded Child Development Home shall provide a minimum of thirty-five square feet (35 ft²) of program space per child.
- 357.3 No Caregiver in an Expanded Child Development Home is permitted to provide foster care, for either children or adults, on the same premises, without the prior written approval of the Director.
- 357.4 No Caregiver in an Expanded Child Development Home is permitted to provide care, on the same premises, for convalescents, persons requiring nursing care, or persons requiring significant assistance with activities of daily living.

358 QUALIFICATIONS OF CAREGIVERS IN EXPANDED CHILD DEVELOPMENT HOMES

- 358.1 Each Caregiver in an Expanded Child Development Home shall comply with the qualification requirements for Caregivers in Child Development Homes contained in this Chapter, except as specifically provided herein. Each Caregiver in an Expanded Child Development Home shall:

- (a) Be at least twenty-one (21) years of age; and
- (b) Have successfully completed nine (9) credit hours of instruction at an accredited college or university in the field of Early Childhood Education, plus one (1) year of experience working with children in group settings; or
- (c) Possess a current and valid Child Development Associate certificate.

358.2 In each Expanded Child Development Home that provides care to one or more infants and/or toddlers, each Caregiver shall:

- (a) Have successfully completed one (1) year of operation as a Caregiver in a licensed Child Development Home; or
- (b) Have successfully completed one (1) year of employment in a licensed Child Development Center as a Program Director, teacher or assistant teacher.

358.3 Each Caregiver shall be responsible for the performance of all duties listed in subsection 352.2 of this Chapter, concerning "Caregiver Responsibilities".

358.4 The enrolled children shall be supervised at all times by one or both of the Caregivers, a substitute Caregiver previously approved by the Director, or an employee. In the absence of the Caregivers, the children must be supervised by an adult who is certified in Pediatric First Aid and CPR.

359 **ADULT/CHILD RATIOS IN EXPANDED CHILD DEVELOPMENT HOMES**

359.1 Each Expanded Child Development Home shall comply with the adult/child ratio requirements contained within section 343 of this Chapter.

359.2 In an Expanded Child Development Home, two Caregivers may care for:

- (a) No more than two (2) children under two (2) years of age;
- (b) Up to seven (7) children, if any of the children are less than three (3) years of age;
- (c) Up to eight (8) children, if all of the children are three (3) years of age and older;
- (d) Up to ten (10) children, if all of the children are four years of age and older; or

- (e) Up to twelve (12) children, if all of the children are five (5) years of age and older.

359.3 An Expanded Child Development Home may provide care for more than two (2) children under two (2) years of age, provided that:

- (a) Three (3) qualified Caregivers are present and caring for the children at all times;
- (b) No more than eight (8) children are under two (2) years of age; and
- (c) No more than six (6) children are under twelve (12) months of age.

359.4 During school vacation periods, if an Expanded Child Development Home has additional children enrolled, the Facility may employ an adult as an assistant to provide care, in addition to the approved qualified Caregivers, so that the Facility is in conformity with the required adult/child ratios, provided that the assistant works under the direct supervision of a qualified Caregiver at all times.

360 24-HOUR FACILITIES

360.1 Each Child Development Facility that offers twenty-four (24) hour care shall comply with all applicable requirements contained in this Chapter, in addition to the specific requirements listed in this section.

360.2 The Facility shall ensure that each activity is appropriate both for the period of the day and for the age of each participating child.

360.3 The Facility shall obtain written consent from a child's parent(s) or guardian(s) before Facility staff bathe and/or shower that child, with the exception that, in emergency situations such as regurgitation or bedwetting, Facility staff may take appropriate measures to clean an affected child.

360.4 Each Facility shall meet the following requirements for rest and sleep:

- (a) If a child is in the care of the Facility after 6:00 p.m. on a regular basis, the Facility shall establish a bedtime routine, in consultation with that child's parent(s) or guardian(s) and taking into account the age and developmental needs of the child and the time of the child's scheduled pick-up from the Facility, on the first day of enrollment, and the Facility shall document the routine in that child's record;
- (b) The Facility shall provide each enrolled child with an individual bed, cot, or crib that is appropriate for the child's age and size;

- (c) The Facility shall ensure that bed linens are changed before the bed, cot, or crib is used by a different child;
- (d) The Facility shall provide, or shall ensure that each enrolled child's parent(s) or guardian(s) provide, appropriate clothing for the child to wear while sleeping;
- (e) The Facility shall ensure that all cribs, cots, and beds are maintained in a clean and sanitary condition;
- (f) If a Facility provides one or more bunk beds for the use of enrolled children, the Facility shall ensure that no child under seven (7) years of age is placed in a top bunk;
- (g) The Facility shall ensure that all beds, cots, cribs and mattresses have firm surfaces and meet the standards established by the Consumer Product Safety Commission;
- (h) The Facility shall ensure that all beds, cots, and cribs, when in use, are placed at least two (2) feet apart, and that each is at least two (2) feet away from any radiator and/or window;
- (i) The Facility shall ensure that no bed, cot or crib blocks or impedes access to any exit;
- (j) The Facility shall ensure that no other person shares a bed, cot or crib with an enrolled child;
- (k) The Facility shall ensure that no enrolled child five (5) years of age or older shares a sleeping room with an adult;
- (l) The Facility shall ensure that staff monitor sleeping children at least once every three (3) hours, and maintain a written record of this monitoring; and
- (m) The Facility shall provide night-lights near the exit of each sleeping room, along each hallway adjacent to a sleeping room, and near each bathroom to be used by enrolled children during the overnight hours.

360.5

Each Facility that provides twenty-four (24) hour care to school-age children shall comply with the following additional requirements:

- (a) The Facility shall establish a homework routine for each school-age child, in consultation with the parent(s) or guardian(s) of that child, on the first day of enrollment, and shall document the routine in that child's record;

DISTRICT OF COLUMBIA REGISTER

- (b) The Facility shall ensure that each school-age child is afforded quiet time and is provided with a quiet area for doing homework, as needed;
 - (c) The Facility staff shall provide assistance with homework, when needed; and
 - (d) If an enrolled child is to go to school directly from the Facility, the Facility shall enter into a written agreement with that child's parent(s) or guardian(s), on or before the first day of enrollment, that specifies the means by which the child shall get to school and the person(s) responsible for accompanying the child to school, and the Facility shall maintain a copy of this agreement in the child's record.
- 360.6 Each Facility shall comply with all applicable requirements concerning nutrition that are contained elsewhere within this Chapter, in addition to the following special requirements:
- (a) The Facility shall provide or serve dinner and a snack to each child scheduled to remain in care overnight, unless the Facility and the child's parent(s) or guardian(s) enter into a written agreement specifying that the child will eat dinner before arriving at the Facility; and
 - (b) The Facility shall provide breakfast to each child who has been in care overnight at the Facility and is going directly from the Facility to school.
- 360.7 Each Facility providing twenty-four (24) hour care shall comply, at all times, with the adult/child ratio and staff qualifications requirements contained in this Chapter.
- 360.8 The Facility shall ensure that staff members are available at all times to attend to the needs of the children and that at least one (1) adult staff member is awake at all times.
- 360.9 The Facility shall establish and implement emergency contingency plans, to address both medical and non-medical emergencies at all hours of the day during which care may be provided, including during natural and/or man-made emergencies that necessitate evacuation from the Facility, temporary displacement from the Facility, or confinement to the Facility.
- 361 BATHROOMS**
- 361.1 Each Child Development Facility shall provide at least one (1) flush toilet and one (1) sink for every ten (10) occupants of the Facility, including staff. Urinals may be substituted for flush toilets in a ratio of two (2) urinals to (1) flush toilet, provided that at least two-thirds (2/3) of the required number of flush toilets are

maintained. Bathroom facilities for use by adults shall be provided separately from those for use by children and/or infants.

- 361.2 If any toilet or sink is too high to be used by one or more enrolled children without assistance, the Facility shall provide a block or step for the child or children's use.
- 361.3 Each Facility shall provide toilet training chairs for use by any child or children who require them. Training chairs shall be emptied promptly and sanitized after each use.
- 361.4 The Facility shall provide soap, and cloth or paper towels, in each bathroom. If the Facility chooses to provide cloth towels, there shall be one towel provided for each person who may use that bathroom.

362 GENERAL FURNISHINGS, EQUIPMENT AND SUPPLIES

- 362.1 Each Child Development Facility shall provide a variety and sufficient quantities of materials, equipment and supplies for indoor and outdoor activities, consistent with the numbers, ages and needs of the infants, toddlers, preschool and school-age children enrolled.
- 362.2 Materials, equipment and supplies accessible to children shall be age appropriate, safe, in good repair, clean, and non-toxic, and shall be accessible to and appropriate for children with special needs if the Facility provides care to such children.
- 362.3 The Facility shall ensure that there are sufficient quantities of materials and equipment to:
- (a) Avoid excessive competition among the children and long waits for use of the materials and equipment; and
 - (b) Provide for a variety of experiences and appeal to the individual interests of the children.
- 362.4 The Facility shall ensure that materials provided are culturally relevant and designed to promote:
- (a) Social development;
 - (b) Communication skills;
 - (c) Self-help skills;
 - (d) Large and small muscle development; and

- (e) Creative expression.

362.5 Each Facility shall have available a sufficient number of strollers, or carriages with appropriate restraints, for the infants and non-ambulatory children enrolled.

363 GENERAL SAFETY AND MAINTENANCE

363.1 All playthings, equipment, materials, and furnishings provided by a Child Development Facility for use by children shall meet the standards of the Consumer Product Safety Commission and the American Society for Testing and Materials, and shall:

- (a) Be large enough that they cannot be swallowed;
- (b) Be sturdy enough that they will not splinter;
- (c) Not have sharp points or rough edges;
- (d) Have lead-free, non-toxic paint or finishes;
- (e) Not have small parts that may loosen and fall off, such as buttons on stuffed animals;
- (f) Be easily washable;
- (g) Be maintained in good repair; and
- (h) Comply with federal standards regarding small toys and objects for use by children.

363.2 All play equipment shall be constructed and installed to ensure its safe use by all enrolled children (*e.g.*, height shall not be excessive for infants and toddlers; the equipment shall not be a potential source of entrapment). There shall be no pinch, crush, or shear points on or underneath such equipment that may be accessible by children.

363.3 The Facility shall remove, repair, or discard all furniture, equipment, and materials that are not usable due to breakage or to hazardous conditions.

363.4 Projectile toys shall be prohibited.

363.5 Tricycles and other riding toys provided by a Facility shall be steerable, appropriate for the ages and sizes of the children enrolled, and shall not contain spokes.

- 363.6 The Facility shall maintain tricycles and other riding toys in good condition, free of sharp edges or protrusions that may injure children. When not in use, such toys shall be stored in a place where they will not present physical obstacles to the children and staff.
- 363.7 The Facility shall use only non-toxic arts and crafts materials.
- 363.8 Electrical outlets which are not in use and are within the reach of children shall be fitted with appropriate child-proof protective receptacle closures that meet the Underwriters Laboratories, Inc., standard for Safety of Receptacle Closures (UL 2255).
- 363.9 The Facility shall not use space heaters unless it has received explicit approval in writing from an official of the Department of Consumer and Regulatory Affairs and/or the Department of Fire and Emergency Medical Services.
- 363.10 The Facility shall ensure that no firearms or other weapons are on the Facility premises, with the exception of those in the possession and control of armed security guards authorized to protect the Facility premises.
- 363.11 The Facility shall maintain adequate storage space for play and teaching equipment, supplies, records, and children's possessions and clothing.
- 363.12 The Facility shall ensure that all toys and other objects or surfaces that are likely to be mouthed by children are sanitized daily with a bacterial disinfectant solution.
- 363.13 All cleaning supplies, toxic substances, paint, poisons, aerosol containers, and other items bearing warning labels shall be safely stored by the Facility and shall be kept inaccessible to the children at all times.
- 363.14 The Facility shall ensure that all appliances, sharp utensils, and other dangerous devices are kept inaccessible to the children at all times.
- 363.15 The Facility shall keep protective coverings on all electrical fans, and shall ensure that fans are placed so that they will not easily topple or tip over. The Facility shall ensure that fans are kept out of reach of the children when in use.
- 363.16 The use of infant walkers, crib gyms, stacked cribs and playpens shall be prohibited.
- 364 PETS AND ANIMALS**
- 364.1 In the event that a Child Development Facility permits animals on the premises, it shall comply with the following requirements:

- (a) The Facility shall adhere to all local ordinances governing the keeping and maintenance of animals;
- (b) The Facility shall advise the parent(s) or guardian(s) of the enrolled children of the presence of animals;
- (c) The Facility shall ensure that all pets or animals permitted on the premises are in good health, show no evidence of carrying disease, are friendly toward children, and do not present a threat to the health, safety and well-being of children;
- (d) The Facility shall maintain all animals or pets in a visibly clean manner;
- (e) The Facility shall isolate any pet or animal showing evidence of disease, *e.g.*, diarrhea, skin infection, severe loss of appetite, weight loss, lethargy or any unusual behavior or symptoms. The Facility shall ensure that any animal suspected of being ill is promptly examined by a licensed veterinarian;
- (f) The Facility shall maintain, on the Facility premises, proof of current compliance with all applicable vaccination requirements;
- (g) The Facility shall prohibit the presence of any animal or pet whose species is a common carrier of rabies, without specific proof that the animal has been vaccinated against that disease;
- (h) All pet reptiles shall be kept inaccessible to children;
- (i) The Facility shall ensure that no animal, animal litter box, animal pen or cage is permitted in any area where food is stored, prepared or served; and
- (j) In the event that an animal bites a child and the child's skin is broken, the Facility shall immediately notify the child's parent(s) or guardian(s) and the Department of Health, and shall report it as an unusual incident pursuant to section 322 of this Chapter.

365 COTS, CRIBS, AND INFANT PLAY

- 365.1 Each child enrolled in a full-day program at a Child Development Facility child development program shall be provided by the Facility with an individual crib or cot, along with a blanket provided either by the child's family or by the Facility.
- 365.2 The Facility shall place cribs and cots at least two (2) feet apart from each other, and at least two (2) feet from all windows and radiators, when in use. This space shall be measured on all sides of each crib or cot.

JAN 14 2005

- 365.3 The Facility shall label each crib or cot with the name of the child to whom it is assigned.
- 365.4 The Facility may only use cribs and cots that meet the standards established by the Consumer Product Safety Commission.
- 365.5 The Facility shall ensure that children do not share bedding.
- 365.6 The Facility shall provide each crib with a firm, fitted mattress, covered with a fitted sheet.
- 365.7 All cots shall have coverings that are easy to clean and nonabsorbent.
- 365.8 The Facility shall ensure that no child sleeps on a bare, uncovered surface.
- 365.9 The Facility shall ensure that seasonally appropriate coverings, such as sheets or blankets that are sufficient to maintain adequate warmth, are available and provided to children as needed.
- 365.10 The Facility shall ensure that pillows are not provided to or used by infants.
- 365.11 The Facility shall ensure that cribs, cots and bedding are kept clean and sanitary at all times.
- 365.12 The Facility shall ensure that a Facility staff member removes each infant from his or her crib for all feedings, and that no infant is fed by means of a propped bottle.
- 365.13 The Facility shall ensure that each infant is allowed to safely and comfortably sit, crawl, toddle, or walk, and to play according to his or her stage of development, in a designated play space apart from the infant's sleeping quarters, during each day.
- 365.14 The Facility shall sufficiently separate cot and crib areas from play space so as to prevent access to sleeping areas by children at play.

366 ROOFTOP PLAY SPACE

- 366.1 If a Child Development Facility chooses to utilize a rooftop play space, the Facility shall enclose the rooftop play space with a sturdy fence at least six (6) feet high and designed to discourage climbing.
- 366.2 The Facility shall provide a fire escape, which leads from the rooftop play space to an open space at the ground level of the Facility premises, and for which the

Facility has received written approval from the Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Services.

- 366.3 Before a Facility may utilize a rooftop play space, the Facility shall obtain written certification from a licensed structural engineer that the additional load presented by the children, staff, and play equipment on the roof is within the load capacity of the building structure.
- 366.4 Before a Facility may utilize a rooftop play space, the Facility shall obtain written certification from a licensed industrial or civil engineer of the safety of the fence, and shall submit this certification to the Director.
- 366.5 Each Facility utilizing a rooftop play space shall, at least annually: (1) obtain an annual inspection of the fence around the play space by a licensed industrial or civil engineer; (2) obtain a written certification from the inspecting engineer of the safety of the fence; and (3) submit this certification to the Director.
- 366.6 Each Facility utilizing a rooftop play space shall undergo and pass an annual safety inspection of the space by the Department of Fire and Emergency Services.
- 366.7 Each Facility utilizing a rooftop play space shall post a copy of each current certification and/or safety report next to the Facility's license, in a conspicuous location on the Facility premises.

367 SAFETY REQUIREMENTS FOR OUTDOOR PLAY SPACE AND EQUIPMENT IN ENCLOSED YARDS ON FACILITY PREMISES

- 367.1 Each Child Development Facility utilizing an outdoor play space on the Facility premises shall enclose the outdoor play space with a fence or natural barrier, which shall be at least four (4) feet high, with a space no larger than 3-1/2 inches between its bottom edge and the ground, and designed to discourage climbing.
- 367.2 The Facility shall provide at least two exits from each outdoor play space; at least one of these exits shall be remote from the Facility building(s).
- 367.3 The Facility shall ensure that all outdoor gates have positive self-latching closure mechanisms, that shall be at least four and one-half (4-1/2) feet off the ground and/or constructed in a manner so that they cannot be opened by a preschool-age child.
- 367.4 The Facility shall ensure that the design, construction and installation of all outdoor play equipment is consistent with guidelines published by the Consumer Product Safety Commission in its "Handbook for Public Playground Safety" and/or with the standards established by the American Society for Testing and Materials for juvenile products.

- 367.5 The Program Director, Caregiver, or designated Facility staff shall conduct a daily inspection of each outdoor play space. The inspection shall include, at a minimum, an inspection of the space itself, and of each piece of equipment, for obvious hazards, and the removal of all trash, debris, broken glass and other foreign or hazardous materials.
- 367.6 Each Facility serving both preschool and school-age children shall separate the outdoor play spaces used by infants, toddlers, and preschool children from the play spaces used by school-age children. The separation shall be accomplished so as not to limit the activities of either age group.
- 367.7 The Facility shall ensure that all surface areas beneath and in the fall zones of climbing equipment, slides, swings, and similar equipment are covered in resilient material that is designed to absorb falls.
- 367.8 The Facility shall ensure that all outdoor equipment is securely anchored and installed so as to prevent tipping or collapsing.
- 367.9 The Facility shall ensure that all outdoor play equipment is free of pinch, crush or shear points on all surfaces that are or may be accessible to children.
- 367.10 The Facility shall provide only swing seats constructed of durable, lightweight, relatively pliable material.
- 367.11 The Facility shall not provide trampolines, with the exception of small trampolines that have jumping surfaces no higher than twelve (12) inches off the ground. If a Facility chooses to provide such trampolines, the Facility shall ensure that all trampoline play is closely supervised and that children do not have unsupervised access to any trampoline.
- 367.12 The Facility shall maintain all outdoor sandboxes and play areas containing sand in a safe and sanitary condition.
- 367.13 In addition to the daily inspections required under section 367.5, the Program Director, Caregiver, or designated Facility staff shall thoroughly inspect each piece of playground equipment, at least monthly, for the following hazards:
- (a) Visible cracking, bending, warping, rusting or breaking;
 - (b) Deformation of open hooks, shackles, rings, links, and the like;
 - (c) Worn swing hangers and chains;
 - (d) Missing, damaged or loose swing seats;
 - (e) Broken supports or anchors;

- (f) Exposed, cracked or loose cement support footings;
- (g) Exposed tubing ends that require plugs or cap covers;
- (h) Accessible sharp edges or points;
- (i) Protruding bolt ends that require caps or covers;
- (j) Loose bolts, nuts or screws that require tightening;
- (k) Splintered, cracked or otherwise deteriorating wood;
- (l) Moving parts in need of lubrication;
- (m) Worn bearings or other worn mechanical parts;
- (n) Broken or missing rails, steps, rungs or seats;
- (o) Worn or scattered surfacing materials;
- (p) Exposed hard surfaces, especially under swings and slides;
- (q) Chipped and/or peeling paint;
- (r) Pinch or crush points; and
- (s) Exposed mechanisms, junctures, and moving components.

- 367.14 The Facility shall record each monthly inspection of playground equipment, shall maintain this record, and shall present it to the Director upon request.
- 367.15 If any hazard listed in this section is noted or observed, the Facility shall immediately correct the hazardous condition or shall remove the piece of equipment from use until it is corrected.
- 367.16 The Facility shall ensure that no lawn mowers, hedge clippers, shears and other similar items are used or stored unlocked in any outdoor play space when children are present.

368 SWIMMING AND WATER SAFETY

- 368.1 Before an enrolled child may be permitted to swim or otherwise participate in any activity taking place in water two (2) or more feet in depth, the Child Development Facility shall obtain written permission from the child's parent(s) or

guardian(s). The written permission shall be signed and dated, and shall include the following:

- (a) The child's name;
- (b) A statement indicating whether the child is a swimmer or a non-swimmer; and
- (c) A statement indicating that the parent(s) or guardian(s) grants permission for the child to participate in water activities.

368.2 If a Facility premises contains a swimming pool or other body of water two (2) or more feet in depth, the Facility shall enclose the pool or body of water behind a secure fence of at least four (4) feet in height, and shall ensure that the area containing the pool or body of water is inaccessible to children at all times unless qualified adults are present and supervising the children.

368.3 If a Facility chooses to utilize one or more wading pools, the Facility shall ensure that such pools are filtered, emptied, and drained daily, and that such pools are stored in a location that is inaccessible to the enrolled children.

368.4 If a Facility chooses to engage in a field trip to a swimming site, such as a public or private swimming pool, lake, or river, Facility staff shall accompany and supervise the children at all times, even when a lifeguard is present.

368.5 The Facility shall ensure that any swimming site utilized by the Facility that is at a location other than within the Facility premises is approved and supervised by the appropriate local authorities.

368.6 At least one adult certified in Emergency Water Safety, First Aid, and CPR shall be in attendance at all times when children are swimming.

368.7 The Facility shall ensure that all activities of children taking place in water two (2) or more feet in depth are supervised by at least one adult currently certified as a lifeguard or water safety instructor by the American Red Cross or by an equivalent water safety instruction and testing program.

368.8 In addition to the requirements contained in this section, the Facility shall comply with the adult/child ratios and requirements for supervision of children contained in section 343 of this Chapter.

369 EMERGENCY PREPAREDNESS AND FIRST AID

369.1 Each Child Development Facility shall have, at all times, on the premises and readily available to administer aid, at least two (2) staff members who possess current certification in Pediatric First Aid, CPR, and the prevention, recognition

and management of communicable diseases, or who have satisfactorily completed courses, approved by the Director, in all of the above disciplines; except that in a Child Development Home wherein there are two (2) or fewer Caregivers, each Caregiver and his or her substitute shall possess the above-mentioned qualifications.

- 369.2 Each Facility shall obtain and shall maintain, on the Facility premises, a sufficient quantity of first aid supplies to meet the Facility's reasonably expected needs, based on the size of the Facility, the ages and developmental abilities of the enrolled children, and the Facility's program of activities. The Facility shall maintain these supplies in a designated location that is readily available to staff and inaccessible to the children.
- 369.3 Each Facility shall provide the following items among its first-aid supplies:
- (a) One (1) roll of one-half inch (1/2") non-allergenic adhesive tape;
 - (b) One (1) roll of two-inch (2") gauze roller bandage;
 - (c) Ten (10) individually wrapped sterile gauze squares in assorted sizes;
 - (d) Twenty-five (25) adhesive (*e.g.*, band-aid) compresses in assorted sizes;
 - (e) Three (3) clean cotton towels or sheeting pieces, approximately twenty-four by thirty-six inches (24" x 36") each;
 - (f) One (1) pair of scissors;
 - (g) Safety pins in assorted sizes;
 - (h) One (1) flashlight;
 - (i) One (1) thermometer;
 - (j) Two (2) dated one-ounce (1 oz.) bottles of syrup of ipecac;
 - (k) One (1) measuring tablespoon or dosing spoon;
 - (l) One (1) pair of tweezers;
 - (m) One-third cup (1/3 c.) of powdered milk for dental first aid (for mixing to make a liquid solution);
 - (n) A current First Aid text published by the American Academy of Pediatrics or the American Red Cross, or an equivalent community first aid guide;

- (o) The telephone number(s) of the local Poison Control Center;
- (p) Rubbing alcohol and alcohol swabs;
- (q) Cotton balls;
- (r) One (1) ice pack or gel pack;
- (s) Liquid sanitizer;
- (t) Disposable, nonabsorbent gloves;
- (u) All items needed for disposal of blood-borne pathogens;
- (v) Written Facility protocol for standard precautions and treatment of injuries; and
- (w) One-way valves for infants (if served), young children and adults.

369.4 The Facility shall inspect and take inventory of its first-aid supplies at least weekly, and shall:

- (a) Remove and replace sterile supplies if the package has been opened or damaged, or if the expiration date on the package has been reached;
- (b) Replace syrup of ipecac if the expiration date on the bottle has been reached; and
- (c) Replace all supplies as they are used up or if they become damaged.

369.5 Each Facility shall maintain at least one portable and complete first-aid kit, and shall ensure that such a kit is taken along by Facility staff on each outing, and when children under the care and supervision of the Facility are being transported.

369.6 The Facility shall ensure that at least one person currently certified in Pediatric First Aid and CPR is present whenever one or more children are taken on an outing or otherwise transported away from the Facility.

369.7 Each Facility shall conduct practice evacuation drills, in accordance with guidelines and/or regulations adopted by the Department of Fire and Emergency Medical Services. The drills shall include all groups of children and all Facility staff, and shall be conducted at least every two (2) months, at varying times during the program day. The Facility shall document, on a form approved by the Director, the date, time and duration of each such evacuation drill, the number of children and staff participating, and the weather conditions.

- 369.8 Each Facility shall develop and implement specific procedures for the safe and prompt evacuation of infants, toddlers and non-ambulatory children.
- 369.9 Each Facility shall develop written emergency contingency plans and procedures to be followed in case of fire, natural or man-made disaster, loss of power, heat or water service, unsafe indoor temperatures, and any other dangerous environmental condition.
- 369.10 Each Facility shall provide, in each Facility building, at least one working, non-pay, stationary telephone accessible to staff.

370 HANDLING DIAPERS, TRAINING PANTS AND TOYS

- 370.1 Each Child Development Facility shall locate its diaper-changing area so that it is in close proximity to a source of warm running water and soap, and so that it is not in or near the Facility's kitchen and eating areas.
- 370.2 The Facility shall store soiled diapers and training pants in designated and labeled containers, separate from all other waste, including soiled clothes and linens. The Facility shall provide a washable, plastic lined, tightly covered receptacle, which can be operated by a foot pedal, within arm's reach of each diaper changing table, for the disposal of soiled diapers.
- 370.3 No Facility may use cloth diapers for any child unless it has obtained a written statement, with supporting documentation, from a particular child's parent(s) or guardian(s) that cloth diapers are required by the special medical circumstances of that child.
- 370.4 The Facility shall provide one or more diaper-changing areas that have surfaces made of non-porous material.
- 370.5 The Facility shall ensure that, for each diaper-changing area, the diaper-changing surface is cleaned and disinfected with a bleach solution or other appropriate germicide after each diaper change.
- 370.6 The Facility shall ensure that the bleach solution used for cleaning and disinfecting the diaper-changing surface is kept inaccessible to the enrolled children at all times.
- 370.7 The Facility shall provide an area for the storage of clean diapers and training pants which is clean and designated exclusively for that use, with the exception that the clean diaper and training pants storage area and the storage area for enrolled children's clean clothes may be combined.

JAN 14 2005

- 370.8 The Facility shall store and/or dispose of soiled diapers, diapering materials and training pants as follows:
- (a) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be sent home with a child shall be rinsed at the Facility at a location where food preparation does not occur, or shall be placed directly into a plastic container that is sealed tightly, and shall be stored away from the rest of the child's belongings and out of reach of all children, until sent home with the child at the end of the day;
 - (b) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be laundered by the Facility shall be placed in a non-porous covered container, containing an appropriate germicidal solution, until laundered;
 - (c) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be either laundered by the Facility or sent home with a child for laundering may be held for laundering no longer than one day;
 - (d) Soiled disposable diapers and training pants shall be placed in a plastic-lined, covered container that shall be emptied, cleaned, and disinfected with an appropriate germicidal agent at least daily;
 - (e) Soiled disposable diapers and training pants shall be discarded at least daily;
 - (f) The Facility shall ensure that only disposable diapering materials, including wipes and changing pads, are used, except as provided further herein, and that each such disposable item is discarded, after one use, in the container used for the discard of soiled disposable diapers described in subsection (d);
 - (g) In the case of emergency, or if special medical circumstances are documented in accordance with this section, a Facility may use washable cloth diapering materials. If cloth materials are used, the Facility shall ensure that each such material is used only once and then stored in the manner required for cloth diapers described in this section; and
 - (h) The Facility shall ensure that all staff wear disposable gloves when changing diapers and training pants or when assisting children to remove soiled clothing, and that a new pair of gloves is worn for the diapering of or assistance with each successive child.
- 370.9 The Facility shall ensure that toys are not shared among different groups of children.

370.10 The Facility shall ensure that any toy that is mouthed is promptly removed from the play area, sanitized in an appropriate germicidal solution, and air dried, before it is returned to the play area.

370.11 The Facility shall ensure that any toy that becomes soiled with blood, stool, urine or vomit is immediately removed and sanitized.

371 HAND WASHING PRACTICES

371.1 Each Child Development Facility shall establish and implement a written policy regarding hand washing, which addresses the following areas:

- (a) When hand washing is required for staff and for children;
- (b) Specific hand washing procedures; and
- (c) Ongoing monitoring by the Program Director or Caregiver to assure that proper hand washing procedures are followed.

371.2 Each Facility shall ensure that all staff wash their hands at the following times:

- (a) Before eating, drinking, or handling food;
- (b) Before handling clean utensils or equipment;
- (c) Before and after assisting or training a child in feeding or in toileting;
- (d) After personal toileting;
- (e) After contact with body secretions, *e.g.*, blood, urine, stool, mucus, saliva, or drainage from wounds;
- (f) After handling soiled diapers, clothes, equipment, menstrual pads or tampons;
- (g) After removing disposable gloves; and
- (h) After caring for a sick child.

371.3 Each Facility shall provide liquid soap, and cloth towels, disposable towels, or an air hand dryer, at each hand washing area at all times.

371.4 The Facility shall ensure that each child washes his or her hands:

- (a) Before the child eats;

DISTRICT OF COLUMBIA REGISTER

- (b) Before the child participates in food-related activities; and
- (c) After the child's toileting.

372 FOOD AND NUTRITION REQUIREMENTS

- 372.1 Each Child Development Facility shall ensure that its planned menus, and the foods that are actually served by the Facility, are: varied, suitable to the ages and developmental levels of the children, and consistent with the meal pattern requirements specified by the United States Department of Agriculture's Child and Adult Food Program.
- 372.2 Each Child Development Center shall have at least one staff member present at all times when meals are being prepared or served who is certified as a Food Handler in accordance with the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations. In order to qualify under this subsection, the staff member must have a valid and current certification, including photographic identification.
- 372.3 At least one Caregiver in each Child Development Home or Expanded Child Development Home that prepares and serves food shall be certified as a Food Handler in accordance with the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations. In order to qualify under this subsection, the Caregiver must have a valid and current certification, including photographic identification.
- 372.4 Each Child Development Facility shall ensure that food is protected and stored as required by the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations.
- 372.5 Each Facility shall request, and shall obtain if applicable, all relevant information regarding dietary restrictions and food allergies for each enrolled child, upon the child's admission to the Facility, and the Facility shall record this information in the child's file.
- 372.6 At least annually, the Facility shall request, and shall obtain if applicable, updated information regarding each enrolled child's dietary restrictions and food allergies.
- 372.7 The Facility shall ensure that all staff responsible for food preparation and distribution are informed, in writing, of any dietary restrictions, food allergies, or other special dietary requirements that concern any children enrolled at the Facility.
- 372.8 If a Facility serves food provided by the parent(s) or guardian(s) of the enrolled children, the Facility shall establish and implement written

policies and procedures to be followed if the food provided by the parent(s) or guardian(s) does not meet the requirements specified in this section.

- 372.9 Each Facility shall maintain a one (1) day supply of perishables and a three (3) day supply of staples at all times.
- 372.10 The Facility shall ensure that powdered milk or reconstituted evaporated milk is not served as a substitute for fluid milk for drinking. Powdered milk or reconstituted evaporated milk may be used for cooking.
- 372.11 The Facility shall ensure that staff responsibilities concerning food preparation and service do not reduce the adult/child ratios for staff actively supervising children below the levels specified in this Chapter or interfere with the implementation of the Facility's program of activities.
- 372.12 The Facility shall ensure that no person is involved in food preparation or service, or otherwise works in the food preparation and/or service area, if that person shows signs or symptoms of illness, including vomiting, diarrhea, or uncovered infectious skin sores, or if that person is actually or likely infected with any bacterium or virus that can be carried in food.
- 372.13 A Facility may only serve a special therapeutic diet to a child upon the written instruction of the child's licensed health care practitioner.

373 MENUS, MEALS AND SERVICE

- 373.1 Each Child Development Facility shall ensure that its daily menus conform to the current United States Department of Agriculture dietary recommendations for sugar, salt and fat intake.
- 373.2 Each Facility shall plan and post menus for all foods served, including snacks, and shall modify the menus as necessary to reflect foods actually served. The Facility shall maintain the menus on file at the Facility premises for at least six (6) months.
- 373.3 The Facility shall ensure that appropriately timed meals and snacks that meet the nutritional requirements of the child are served to each child according to the following schedule, based on the number of hours a child is present at the Facility:
- (a) Two (2) to four (4) hours, child receives one (1) snack;
 - (b) Four (4) to six (6) hours, child receives one (1) meal and one (1) snack;

- (c) Seven (7) to eleven (11) hours, child receives two (2) meals and one (1) snack or two (2) snacks and one (1) meal, depending on the time of arrival of the child; and
- (d) Twelve (12) hours or more, child receives three (3) meals and two (2) snacks.

374

REQUIREMENTS FOR INFANT FORMULA AND FEEDING

374.1

Each Child Development Facility shall comply with the following requirements concerning infant formula and feeding:

- (a) Each feeding bottle for an infant or toddler shall be labeled with the name of the child to whom it belongs;
- (b) Each bottle of milk or formula shall be labeled with the date of preparation, and refrigerated at thirty-five to forty degrees Fahrenheit (35° F - 40° F);
- (c) Each open container of ready-to-feed or concentrated formula shall be used for only one child, and shall be labeled with that child's first and last name and the date on which the container is opened;
- (d) All infant formula given to a child shall be prepared according to written instructions obtained from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner;
- (e) All bottles and formula preparation equipment shall be washed with hot water and detergent;
- (f) Each bottle of reconstituted concentrated or powdered formula shall be refrigerated immediately after its preparation, or immediately upon its arrival at the Facility if it is prepared and brought to the Facility by the child's parent or guardian, and may be held for feeding for no longer than twenty-four (24) hours;
- (g) Each bottle of commercially prepared ready-to-feed formula shall be refrigerated promptly after it is opened;
- (h) All unused formula shall be discarded;
- (i) Each bottle or container of breast milk provided for a child by the parent or guardian of that child shall be labeled with the child's first and last name and the date of receipt, and refrigerated immediately upon its arrival at the Facility;

- (j) Fluid breast milk may be held for feeding for no more than twenty-four (24) hours, and frozen breast milk may be held in a frozen state for no more than two (2) months;
- (k) The Facility shall provide, or require the parent(s) or guardian(s) of each infant to provide, a sufficient supply of commercially prepared formula so that the child will be adequately fed in case of emergency;
- (l) Each child who is too young or otherwise developmentally unable to use a feeding chair or other age-appropriate seating apparatus shall be held while being fed;
- (m) Each child who is too young, too small, or otherwise developmentally unable to hold his or her bottle while feeding shall be held while being fed;
- (n) No child may be placed in a crib with a bottle for feeding, nor may a bottle be propped up to feed a child; and
- (o) The Facility shall provide a comfortable and secluded location on-site in which mothers can breast-feed their children.

375**REQUIREMENTS FOR INFANT SOLID FOOD****375.1**

Each Child Development Facility shall comply with the following requirements concerning infant solid food:

- (a) Each solid food provided to an infant shall be served according to written instructions, which specify the amount(s) and type(s) of food and feeding times, that are requested and obtained by the Facility from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner.
- (b) Each container of infant food that is provided to the Facility by the parent(s) or guardian(s) of a child for feeding to that child shall be labeled with the child's first and last name and the date of receipt;
- (c) Each container of infant food shall be refrigerated immediately upon its arrival at the Facility, with the exception of unopened containers of commercially prepared bottled or canned food that may be stored at room temperature until opened;
- (d) The uneaten portion of any container of infant food shall be immediately refrigerated, and may not be held for further consumption for longer than two (2) days; and

- (e) If the Facility fails to obtain adequate written feeding instructions from the parent(s) or guardian(s) of a particular child, the Facility shall serve the infant breast milk, formula and/or food in sufficient amounts to meet the current Recommended Dietary Allowances ("RDA") or Dietary Reference Intakes ("DRI") as specified by the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

376 ADMINISTRATION OF MEDICATION

- 376.1 No Child Development Facility may provide medicine or treatment, with the exception of emergency first aid, to any child, unless the Facility has obtained a written medical order or prescription from the child's licensed health care practitioner and the written consent of the child's parent(s) or guardian(s).
- 376.2 The Facility shall ensure that each medication ordered or prescribed is maintained by the Facility in its original container, and clearly labeled with the name of the child for whom it has been ordered or prescribed, the name of the medicine, the dosage, the method of administration, and the name and telephone number of the child's licensed health care practitioner.
- 376.3 The Facility may not administer any medication for any period beyond the date indicated on the medical order or prescription.
- 376.4 The Facility shall maintain a medication log, on a form approved by the Director, on which the Facility shall record the date, time of day, medication, medication dosage, method of administration, and the name of the person administering the medication, each time any medication is administered to a child.
- 376.5 The Facility shall maintain all records pertaining to the administration of each medication to each child on file for a period of at least three (3) years after the administration of said medication, including the written instructions and authorization of the licensed health care practitioner, the written instructions and authorization of the parent(s) or guardian(s), and the medication log entries completed by the Facility. The Facility shall make these records available for review by the Director upon request.
- 376.6 The Facility shall ensure that each medication requiring refrigeration is maintained at a temperature between thirty-five and forty degrees Fahrenheit (35° F - 40° F), and that all refrigerated medications are kept in a separate storage container within the Facility's refrigerator so as to prevent potential cross-contamination with foods.
- 376.7 For each child for whom medication is administered at the Facility, the Facility shall obtain from the parent or guardian of the child, in writing, each day, a statement indicating when the last dose was administered prior to the child's

arrival at the Facility, and the Facility shall add this information to the medication log.

- 376.8 In case of an emergency involving actual or potential poisoning, the Facility may administer syrup of ipecac to a child without previous written instruction, upon the verbal instruction of a poison control center or of a licensed health care practitioner;
- 376.9 The Facility may administer nonprescription topical ointments, including sun block, petroleum jelly, and diaper ointment, to a child, upon obtaining the permission of the child's parent(s) or guardian(s).
- 376.10 The Facility shall maintain each nonprescription topical ointment in its original container, and shall administer each such ointment in accordance with the manufacturer's instructions.
- 376.11 A Facility that provides out-of-school care to school-age children may permit a school-age child to administer his or her own medication, under the direct supervision of a staff member, upon receipt of written authorization for the child's self-administration of the medication from the child's parent(s) or guardian(s).
- 376.12 A Facility that provides out-of-school care to school-age children may permit a school-age child with asthma to carry his or her own inhaler and to self-administer medication from it as needed, upon receipt of written authorization from the child's licensed health care practitioner and written consent from the child's parent(s) or guardian(s). In each such case, the Facility shall ensure that all staff members are informed of the fact that the particular child is permitted to self-administer his or her asthma medication.

377 TRANSPORTATION REQUIREMENTS

- 377.1 Each Child Development Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall comply with all applicable federal and District of Columbia laws and regulations governing the maintenance and operation of motor vehicles and the transportation of children.
- 377.2 Each Facility that enters into a contract with another entity for the provision of transportation services shall obtain a signed attestation from the contractor entity that the transportation service complies with the requirements of this section and with all other applicable laws and regulations pertaining to the provision of transportation services.
- 377.3 Each Facility shall establish and implement policies and procedures intended to ensure the safe transportation of children, including policies and procedures for the training and monitoring of all staff responsible for the transportation of enrolled children.

- 377.4 The Facility's transportation policies and procedures shall address alternative transportation means to be employed if the Facility's primary vehicle breaks down or is otherwise unavailable for use.
- 377.5 Before any child may be transported while under the care of the Facility, the Facility shall obtain written and signed permission from the child's parent(s) or guardian(s).
- 377.6 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall label each such vehicle with the name and phone number of the Facility.
- 377.7 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall maintain proof of current motor vehicle insurance coverage for each such vehicle, both on the Facility premises and inside the vehicle.
- 377.8 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall ensure that only licensed drivers who are covered by the Facility's insurance policy operate any such vehicle when transporting enrolled children.
- 377.9 Each child Facility shall immediately notify the Director of any traffic accident involving children being transported while under the care of the Facility. The Facility shall also submit a written report to the Director within seventy-two (72) hours of the accident, on a form approved by the Director, and shall include a copy of the police report regarding the accident, if available.
- 377.10 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall ensure that each such vehicle is maintained in a clean and mechanically safe condition, as verified by a current inspection sticker from the District of Columbia Department of Motor Vehicles or the equivalent agency in another state and by the Facility's own maintenance records.
- 377.11 Each Child Development Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall maintain inspection and repair records for each such vehicle on file for at least twelve (12) months from the date of each inspection or repair. A person or entity that operates multiple Child Development Facilities may maintain all such records in a single administrative office.
- 377.12 The Facility shall ensure that no person who has been convicted of Driving While Intoxicated (DWI), Driving Under the Influence of Alcohol or Drugs (DUI), or the equivalent, within the previous three (3) years, transports any children enrolled at the Facility.

- 377.13 If the primary driver identified by a Facility becomes unavailable, the Facility shall identify and utilize a substitute driver who meets the requirements of this section.
- 377.14 The Facility shall ensure that no driver smokes, wears headphones, uses a cellular phone or wears earphones while transporting enrolled children.
- 377.15 The Facility shall ensure that all children transported in automobiles or vans while under the care of the Facility are properly restrained by seat belts or child restraint devices. The Facility shall also ensure that each child four (4) years of age or younger or weighing less than forty (40) pounds is properly secured in an infant or child safety seat, installed according to the recommendations of the Consumer Product Safety Commission, as required by applicable District of Columbia laws and regulations.
- 377.16 The Facility shall ensure that no child or staff member stands or sits on the floor of a vehicle while the vehicle is in motion, and that no child is held on another person's lap while the vehicle is in motion.
- 377.17 The Facility shall ensure that all vehicle doors remain locked at all times except when staff and/or children are boarding or departing the vehicle.
- 377.18 The Facility shall ensure that no child is left unattended in a vehicle at any time.
- 377.19 The Facility shall maintain a safe vehicle loading and unloading area for children on or adjacent to the Facility premises.
- 377.20 The Facility shall ensure that identification is securely attached to the person of each child participating on a field trip, and that the identification contains the Facility name, address, telephone number, and emergency contact telephone number if applicable.
- 377.21 The Facility shall ensure that the following items are present in each vehicle when transporting children on field trips or other routine trips:
- (a) A first-aid kit that meets requirements specified in section 369 of this Chapter;
 - (b) A working fire extinguisher;
 - (c) A supply of drinking water sufficient for all of the children in the vehicle;
 - (d) A minimum of two (2) large clean towels or blankets;
 - (e) Emergency contact information, and telephone numbers of the parent(s) or guardian(s), for each child in the vehicle;

- (f) A copy of the signed Emergency Medical Treatment Authorization form, as required by section 324 of this Chapter, for each child in the vehicle;
- (g) A cellular phone or a two-way radio; and
- (h) A working flashlight.

377.22 The Facility shall ensure that at least one staff member trained and currently certified in Pediatric First Aid and CPR is present in each vehicle when children are being transported.

377.23 When a child with special needs is being transported in a wheelchair while under the care of a Child Development Facility, the Facility shall comply with the following additional safety requirements:

- (a) The child's wheelchair shall be secured in the motor vehicle, using a minimum of four (4) anchorages attached to the floor of the vehicle, and four (4) securing devices, such as straps or webbing that have buckles and fasteners, which attach the wheelchair to the anchorages;
- (b) The child shall be secured in the wheelchair by means of a wheelchair restraint that contains a combination of pelvic and upper body belts; and
- (c) The child's wheelchair shall be placed in a position in the vehicle that neither prevents access to the child nor passage to the front and rear of the motor vehicle.

378 CHILDREN WITH SPECIAL NEEDS

378.1 Each Child Development Facility that serves one or more children with special needs, including infants, toddlers, preschool-age children, and/or school-age children, shall comply with the specific additional requirements of this section.

378.2 Upon the admission of a child with a special need, or upon the identification of a special need in an enrolled child, the Facility shall promptly obtain consent, from the parent(s) or guardian(s) of the child, for the implementation of any treatment or protocol ordered by the child's licensed health care practitioner.

378.3 The Facility shall ensure that the care of each child with special needs who is thirty-six (36) months of age or over is consistent with that child's Individual Education Plan (IEP) and Individual Family Services Plan (IFSP).

378.4 The Facility shall maintain a written individualized care plan for each enrolled child with special needs. This plan shall include the following items as needed and appropriate for the child:

- (a) Administration of medication in accordance with this Chapter;
 - (b) Nutrition and feeding schedule;
 - (c) Special qualifications required of any staff member who may feed the child;
 - (d) Instructions on the maintenance and use of medical equipment or adaptive devices;
 - (e) Psychological needs of the child;
 - (f) Medical emergency instructions;
 - (g) Toileting and personal hygiene instructions;
 - (h) Specific child development services to be provided at the Facility;
 - (i) Special training required of one or more staff members to care for the child's special needs;
 - (j) Special procedures to be followed for participation in fire evacuation drills; and
 - (k) Transportation requirements.
- 378.5 The Program Director or Caregiver of the Facility, or his/her designee, in consultation with the child's parent(s) or guardian(s), shall review and update each child's individualized care plan at least every six (6) months.
- 378.6 Before disclosing any information concerning the child to any person, including a licensed health care practitioner, who is not employed by the Facility, the Facility shall obtain permission from the child's parent(s) or guardian(s).
- 378.7 The Facility shall provide each child with special needs with:
- (a) Developmentally appropriate toys, materials and equipment;
 - (b) Assistive attention from staff members; and
 - (c) Reasonable accommodations to enable the child to participate in the activities of the Facility, including field trips.

378.8 If health services or therapeutic services are provided at the Facility, the Facility shall ensure that these services are provided by practitioners who are authorized and licensed to provide the applicable services in the District of Columbia.

399 DEFINITIONS

For the purposes of this Chapter, the term:

"Act" means the Child Development Facilities Regulation Act of 1998, effective April 13, 1999, D.C. Law 12-215, D.C. Official Code § 7-2031, *et seq.*

"Abuse" means the physical or mental injury of a child by a parent, guardian or custodian, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed. Abuse includes sexual abuse of a child, whether or not physical injuries are sustained.

"Adult" means a person who is eighteen (18) years of age or older.

"Americans with Disabilities Act" or "ADA" means the law that requires that persons with disabilities not be denied public accommodations that are designed to afford them the opportunity to participate in programs or activities that are not separate or different. (P.L. 101-336; 104 Stat. 327; 42 U.S.C. 12101 *et seq.*) .

"CPR" means cardiopulmonary resuscitation.

"Caregiver" means an individual who is in charge of, and responsible for the direct care, supervision, and guidance of, children in a Child Development Home or Expanded Child Development Home.

"Change in Ownership" means a transfer of controlling legal or equitable interest and authority resulting from a sale or merger.

"Child" or "Children" means an individual or individuals from birth to fifteen (15) years of age, except when "infant/s" and/or "toddler/s" are specified within the same provision, in which case "child" or "children" means an individual or individuals from two (2) to fifteen (15) years of age.

"Child Development Center" or "Center" means a Child Development Facility located in premises other than a dwelling occupied by the operator of the Facility.

"Child Development Facility" or "Facility" means a center, home, or other structure that provides care and other services, supervision and guidance for children, infants, and toddlers on a regular basis, regardless of its designated name. "Child Development Facility" includes "Child Development Home," "Expanded Child Development Home," and "Child Development Center." "Child Development Facility" does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

"Child Development Home" means a Child Development Facility located in a private dwelling occupied by the operator of the Facility. "Child Development Home" also includes those Facilities classified as "Expanded Child Development Home".

"Department" means Department of Health.

"Director" means the Director of the Department of Health.

"Expanded Child Development Home" means a Child Development Home in which child care is provided by two (2) or more Caregivers for up to twelve (12) children.

"Facility" means Child Development Facility.

"Fever" means a temperature of one hundred degrees Fahrenheit (100° F) or higher if taken under the arm, one hundred and one degrees Fahrenheit (101° F) if taken orally, or one hundred and two degrees Fahrenheit (102 ° F) if taken rectally. For children under the age of four (4) months, a fever is a temperature of one hundred and one degrees Fahrenheit (101°) or higher taken by any method.

"Guardian" means a person, other than the child's parent, who has been granted legal authority over and responsibility for a child.

"Infant" means a child younger than twelve (12) months of age.

"Licensed Health Care Practitioner" means a Physician, a Nurse-Practitioner (also known as an Advanced Practice Registered Nurse), or a Physician's Assistant licensed to practice health care by the D.C. Board of Medicine or Board of Nursing, or by a comparable body in another state.

"Licensee" means a Child Development Facility licensed pursuant to this Chapter, or the operator of such a Facility.

"Neglect" means the failure to provide care, services and supervision necessary to avoid physical harm or mental anguish.

"Non-Ambulatory Child" means a child who is: (1) unable to leave a building under emergency conditions without assistance; (2) unable to walk forward or backward without assistance; (3) unable to go up or down steps without assistance; or (4) dependent upon mechanical aids such as crutches, walkers or wheelchairs.

"Out-of-School Care" means care provided to one or more children between four (4) and fifteen (15) years of age who are enrolled in public, private, or charter schools, before and/or after normal school hours.

"Parent" means the mother or father of a child, by blood, adoption, foster care placement, or appointment as legal guardian or custodian of that child by a court of competent jurisdiction.

"Program Director" means a Child Development Center staff member who is in charge of the day-to-day operations of the Center.

"Related Person" means a legal guardian, or any of the following relationships, established by blood, marriage, or adoption: parent, step-parent, grandparent, brother, sister, step-brother, step-sister, uncle, aunt, niece, or nephew.

"Special Needs" means conditions or characteristics of a person that reflect a need for particular care, services or treatment, most commonly physical and/or mental disabilities and/or delays.

"Staff" or "Staff Member" means an adult who renders child care or related services directly to a Child Development Facility, whether compensated or uncompensated. "Staff" includes paid employees, volunteers, and interns.

"Toddler" means an individual older than twelve (12) months but younger than twenty-four (24) months of age.

"Unusual Incident" means any accident, injury, or other extraordinary event that involves a child in care, a staff member, or the operation of a Child Development Facility, including suspected child maltreatment or abuse.

"Volunteer" means a person offering services to a Child Development Facility without compensation by the Facility.

Any person desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be submitted to Denise Pope, Administrator, Health Care Regulation and Licensing Administration, Department of Health, 825 North Capitol Street, N.E., Second Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained by writing to the address shown above.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of District of Columbia Housing Authority ("DCHA") hereby gives notice of its intent to adopt the following amendments to Chapter 62 and Chapter 74 of Title 14 DCMR in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed amendments contain the rules governing pet ownership in public housing and the rules for service animals.

Proposed Amendment: Chapter 62, Low Rent Housing: Rent and Lease, is amended by adding new Section 6211, to read as follows:

6211 PET OWNERSHIP IN PUBLIC HOUSING

- 6211.1 Service Animals. Residents of any DCHA-owned property who are disabled may own service animals as a Reasonable Accommodation provided that an application for a Reasonable Accommodation has been submitted and approved in accordance with Section 7403 of this Subtitle.
- 6211.2 Pets Generally Prohibited. Pets generally shall not be permitted at DCHA properties. Residents of DCHA owned properties may only keep a pet in their unit if they are residents of Elderly-only or Mixed Population properties, as defined in Chapter 6099 of this Title, and have registered their pet and executed a lease addendum permitting the pet.
- 6211.3 Prohibited Animals. Under no circumstances shall animals whose natural protective mechanisms pose a risk of serious bites and lacerations, or are considered dangerous, aggressive, vicious, intimidating or detrimental to the health and safety of other residents be permitted as pets or service animals. Snakes or other types of undomesticated animals are not permitted. Dogs in excess of 25 pounds are only permitted as service animals if they are properly trained for a specific disability, such as seeing-eye dogs.
- 6211.4 Prior Ownership. Residents of Elderly-only and Mixed Population properties who own a pet residing in their unit prior to January 1, 2005, shall identify and register the pet at their property management office on or before April 1, 2004. Requests for Reasonable Accommodation for a service animal at all properties, if the animal is in the possession of a resident as of January 1, 2005, shall be filed with the management office on or before April 1, 2004. After the effective date of these regulations, no pet or service animal shall be brought on any property prior to registration and execution of a lease addendum and, in the case of service animals, approval of the request for accommodation.

- 6211.5 Grievance. A request to approve a pet under 6211.4 above or a Service Animal under Section 7403 that is denied is subject to the Grievance Procedure provided in Chapter 63 of this Title.

Proposed Amendment: Chapter 74, Reasonable Accommodation Policies and Procedures, is amended by revising Section 7409 to read as follows:

7409 SERVICE ANIMALS

- 7409.1 Residents of DCHA with disabilities shall be permitted to have service animals, if such animals are necessary as a reasonable accommodation for their disabilities. DCHA residents or potential residents who need a service animal as a reasonable accommodation shall request the accommodation in accordance with the reasonable accommodation policy.
- 7409.2 Residents shall register their animal with their Property Manager before it is brought onto DCHA's property, and shall update the registration annually at the Property Manager's Office. The registration shall include a certificate signed by a licensed veterinarian or a local authority empowered to inoculate animals (or designated agent of such an authority) stating that the service animal has received all inoculations required by applicable local law.
- 7409.3 DCHA requires that a resident or prospective resident with a service animal provide written certification from a third party, such as a health care provider, that:
- (a) the resident or a member of his or her family is a person with a disability; and
 - (b) the animal has been individually trained, by the person with a disability or others, to work for the benefit of the person with a disability.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of District of Columbia Housing Authority ("DCHA") hereby gives notice of its intent to adopt the following amendment to Chapter 96 of Title 14 DCMR, "Public Housing: Barring Policy," in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The new chapter will be an instrumental tool in providing safe and secure communities for DCHA residents by permitting unauthorized non-resident persons to be barred from DCHA properties and permit any individual who violates a Bar Notice to be arrested for unlawful entry. This action is based on DCHA's statutory authority, found at D.C. Code § 6-203, to bar unauthorized persons from DCHA property.

Proposed Amendment: Delete the present language of Chapter 96 in its entirety and replacing it with the new Chapter 96 to read as follows:

CHAPTER 96 PUBLIC HOUSING: BARRING POLICY**9600 BARRING POLICY**

- 9600.1 The DCHA's mission is to provide properties that are safe, decent, and sanitary dwelling units in which families may live. In addition, DCHA has the right to refuse entrance or access to any of its properties to any unauthorized person as defined in § 9600.2.
- 9600.2 No person may enter upon a DCHA property unless that person is authorized to be on the DCHA property. The only persons authorized to be on a DCHA property are:
- (a) Residents of the DCHA property;
 - (b) Members of the resident's household;
 - (c) A resident's guests, except as provided in § 9600.5;
 - (d) Persons authorized under § 9600.3;
 - (e) Organizations with a license to use a portion of a DCHA property for specified purposes, and including the invitees of a licensee;
 - (f) Persons employed by or doing business with DCHA at the DCHA property;
 - (g) Persons engaged in the legal or law enforcement community who are engaging in activities directly related to civil or criminal

matters, such as process servers, investigators, attorneys or other individuals legitimately on a DCHA property for such purpose; and

- (h) Persons authorized after consultation with the Resident Council as provided under § 9600.3 below.

9600.3 Any person, not otherwise authorized under § 9600.2, seeking access to a DCHA property for legitimate business or social purposes shall be admitted as follows:

- (a) Any such person or organization shall submit a written request to the property management office of the respective DCHA property to which the person is seeking access.
- (b) DCHA, in consultation with the resident council of the respective DCHA property, shall review the request and respond to the request in writing within ten (10) business days of the request stating approval or disapproval of the request. If DCHA has not responded within ten (10) business days, the request is deemed approved.

9600.4 Any person not identified in § 9600.2 as an authorized person may be subject to the issuance of a Bar Notice for the period of time specified in the Bar Notice, not to exceed five years.

9600.5 Resident's guests may be subject to the issuance of a Temporary or Extended Bar Notice barring them from a specified DCHA property pursuant to the following:

- (a) Any resident's guest who engages in any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or DCHA employees or violates DCHA policy is an unauthorized person and may be barred for a Temporary or Extended period of time as specified in sub-sections (b) and (c) below.
- (b) A Temporary Bar Notice shall remain in effect for the first infraction for sixty (60) days, a second infraction for six (6) months, and third infraction for one (1) year for the following infractions:
 - (1) Entering DCHA property without presenting identification or properly signing the visitor log, unless identified as a guest by the resident they are visiting;

- (2) Being on DCHA property at a location or unit not specified on the guest pass or visitor log, unless the person is on the most direct route to or from such location, or accompanied personally by the resident being visited;
 - (3) Residing as an unauthorized occupant in a DCHA dwelling unit; or
 - (4) Engaging in excessively loud or disruptive conduct or otherwise disturbing the peace of DCHA residents or DCHA employees.
- (c) An Extended Bar Notice shall remain in effect for five (5) years for the following infractions:
- (1) Persons issued more than four (4) bar notices for activities identified in § 9600.5(b);
 - (2) Engaging in conduct that is dangerous to the health or safety of DCHA residents or DCHA employees;
 - (3) Engaging in activities involving illegal drugs, violence, weapons, theft, assault, and serious damage to property; and
 - (4) Persons evicted from DCHA property on the basis of such person's criminal or illegal activity.
- (d) Nothing contained in this Chapter shall prevent a guest of a DCHA resident from access or entry to the resident's dwelling unit for legitimate business or social purposes except as they may have been barred as provided in § 9600.5(b) or (c).
- (e) For purposes of this Chapter, a resident's guest is any individual who is an invitee of, and can identify by name and unit number, an individual who is a member of a household under lease with DCHA, and such individual is available and willing to accept the guest.

9600.6

Bar Notices shall be applicable at the following:

- (a) Bar Notices issued to unauthorized persons under § 9600.4 or Temporary or Extended Bar Notices issued to guests under § 9600.5 may only be issued to bar such individuals from a particular DCHA property.

- (b) Bar Notices may not be issued to bar persons from public streets or sidewalks, or from private property adjoining DCHA property.

9600.7 Bar Notices shall be served to persons pursuant to the following:

- (a) Personal delivery or attempted delivery in writing of Bar Notices shall be made to each person barred from a DCHA property.
- (b) The Bar Notice shall identify the basis for the issuance of the Bar Notice and the time period for which the person is barred from DCHA property. The Bar Notice shall reflect the date, method and manner of delivery upon the barred person. The Bar Notice does not have to be delivered to the person on DCHA property.
- (c) A copy of the Bar Notice issued to a resident's guest shall be provided to the resident, if the guest has identified the unit number and name of the resident. A resident may file a grievance pursuant to the provisions of Chapter 63 of this Title if the resident's guest has been barred.

9600.8 Bar Notices shall only be issued by the following persons:

- (a) Members of the DCHA Office of Public Safety including sworn officers and special police officers;
- (b) Members of the Metropolitan Police Department;
- (c) Members of cooperative law enforcement task forces as may be authorized by the Chief of DCHA Office of Public Safety; and
- (d) Private security providers contracted by DCHA or DCHA's agent.

9600.9 Bar Notices and Barring Policy information shall be made available as follows:

- (a) The DCHA Office of Public Safety shall keep copies of all Bar Notices and records of the expiration dates thereof;
- (b) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to each applicant upon signing a lease with DCHA;
- (c) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to the Resident Council for the DCHA property; and
- (d) A copy of the Barring Policy, as set forth in this Chapter, shall be available at the management office for each DCHA property.

- 9600.10 The issuance of a Bar Notice requires the following:
- (a) The barred person shall immediately leave the DCHA property from which the person was barred and not return to that DCHA property for the period the Bar Notice remains in effect.
 - (b) Should the barred person fail to leave the DCHA property after the issuance of the Bar Notice, or later returns to the DCHA property noted on the Bar Notice at any time while the Bar Notice is in effect, the person may be arrested for "unlawful entry" pursuant to D.C. Code § 22-3302 (2001 ed.) as amended.
- 9600.11 Any barred person may submit a written request for a temporary lift of a Extended or Temporary Bar Notice to the Chief of the DCHA Office of Public Safety.
- (a) The written request shall state the specific location and time period during which the barred person is seeking access, and the reason for the request of the temporary lift, including any documentation of a request for a reasonable accommodation.
 - (b) A temporary lift shall be for a period of not more than eight hours during one calendar day.
 - (c) A barred person may only be granted two (2) temporary lifts during any particular year of the imposition of a Bar Notice.
 - (d) Any barred person who commits a subsequent infraction on DCHA property during a period of a temporary lift shall be prohibited from requesting additional requests for temporary lifts during the remaining term of the Bar Notice.
 - (e) The Chief of DCHA Office of Public Safety shall review the request of temporary lift and respond in writing within ten (10) days of the submission.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599. Copies of these proposed rules may be obtained from the DCHA at that same address.

**DISTRICT OF COLUMBIA TAXICAB COMMISSION
PANEL ON RATES AND RULES****NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission ("Commission"), by its Panel on Rates and Rules, pursuant to the authority set forth under sections 8(b)(1)(J) and 9(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(J), and 50-308(b)), hereby gives notice of its proposed rulemaking action taken April 6, 2004, to amend § 822 of Chapter 8 of Title 31 of the District of Columbia Municipal Regulations ("DCMR"). The proposed rulemaking specifies acts that are deemed a violation of the safety, comfort and convenience of passengers and the general public; including the prohibition of the usage of profanity, abusive or threatening language by taxicab operators toward passengers and Public Vehicle Enforcement Inspectors. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The Panel proposed to amend § 822.9 of Chapter 8 in Title 31 DCMR to read as follows:

822 OPERATION OF TAXICABS

822.9 The operation of taxicabs shall be conducted in accordance with the laws of the District and with due regard for the safety, comfort and convenience of passengers, for the safe and careful transportation of property, and for the safety of the general public. All reasonable efforts shall be made to promote safety at all times and under all conditions. It shall be a violation of this provision if a taxicab operator does any of the following:

- (a) Uses profanity or abusive verbal language toward a passenger, taxicab operator, or dispatcher immediately before, during, or after a fare;
- (b) Uses profanity, abusive or threatening language toward a Public Vehicle Enforcement Inspector;
- (c) Is discourteous or rude to a passenger in a verbal or physical manner;
- (d) Harasses or intimidates a passenger in such a manner that they reasonably believe they are in imminent fear of danger;
- (e) Acts in an inappropriate manner that would be reasonably considered offensive to a reasonable person; or

- (f) Acts in a manner that is a violation of traffic laws as set forth in Chapters 22 and 24 of Title 18 of the District of Columbia Municipal Regulations.

Any person desiring to file written comments on the Panel's proposed rulemaking action must do so not later than thirty (30) days after the publication of this notice in the District of Columbia Register. Comments should be filed with Kimberly A. Lewis, Attorney Advisor and Secretary, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. Copies of the proposed rulemaking may be obtained by writing to the above address.